

State of Arkansas
76th General Assembly
Regular Session, 1987
By: Representative Mahony

HOUSE BILL 1887

"AN ACT TO AMEND VARIOUS PROVISIONS OF ACT 391 OF 1941, AS AMENDED, THE ARKANSAS EMPLOYMENT SECURITY ACT; AND FOR OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 2 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1103, is hereby amended by adding at the end thereof a Subsection (x) to read as follows:

"(x) The term 'supplemental benefit payments' means unemployment benefit payments made under a private unemployment compensation plan."

SECTION 2. Subparagraph (v) of Subparagraph (D) of Paragraph (1) of Subsection (i) of Section 2 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1103 (i) (1) (D) (v), is hereby amended to read as follows:

"(v) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work relief or work training, or"

SECTION 3. Paragraph (1) of Subsection (n) of Section 2 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1103(n) (1) is hereby amended to read as follows:

"(1) For purposes of Section 7 of this Law, that part of remuneration paid to an individual by an employer with respect to employment during any calendar year beginning on and after January 1, 1983, which exceeds Seven Thousand Five Hundred Dollars (\$7,500) during any calendar year. For the purposes of this subsection, wages paid within a calendar year by a predecessor employer may be counted as though paid by a successor as defined in

Section 7, and the term 'employment' includes services constituting employment under any unemployment insurance law of another state."

SECTION 4. Subsection (c) of Section 4 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1105(c) is hereby amended to read as follows:

"(c) Such worker is unemployed, physically and mentally able to perform suitable work, and is available for such work. Mere registration and reporting at a local employment office shall not be conclusive evidence of ability to work, availability for work, or willingness to accept work unless the individual is doing those things which a reasonably prudent individual would be expected to do to secure work.

Provided that:

(1) Persons who are on layoff and who are attending a State vocational school for the purpose of upgrading or improving their job skills shall be considered available for employment so long as they make reasonable efforts to secure employment; unless, or until, they refuse suitable employment, or referral or recall to suitable work;

(2) No otherwise eligible individual shall be denied benefits with respect to any week in which he is in training with the approval of the Administrator by reason of the application of provisions in the first paragraph of this subsection 4(c) relating to availability for work. For the purpose of this subsection, the approval by the Administrator of training for an individual shall be based on the following considerations:

(A) The claimant's skills must be obsolete or the demands for his skills in his labor market must be minimal and not likely to improve, and

(B) The claimant must possess aptitudes or skills which can be usefully supplemented within a short time by retraining, and

(C) The training must be for an occupation for which there is a substantial and recurring demand, and

(D) The claimant must produce evidence of continued attendance and satisfactory progress;

(3) In the event of the death of an individual's immediate family member, the eligibility requirements of availability for that individual shall be waived for the day of the death and for six (6) consecutive calendar days thereafter. For the purposes of this subsection, 'immediate family member'

means a spouse, child, parent, brother, sister, grandchild or grandparent of the individual;

(4) An individual on short-term layoff who expects to be recalled by his employer to a full-time job and whose employer intends to recall such individual to a full-time job within eight (8) weeks after the initial date of his layoff shall not be required during such layoff to register for work at an Employment Security Division office or to seek other work; and

(5) Any individual who is not actively engaged in seeking work because he is before any court of the United States or of any state pursuant to a lawfully issued summons to appear for jury duty shall not be disqualified under this subsection 4(c)."

SECTION 5. Paragraph (1) of Subsection (f) of Section 5 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1106(f)(1) is hereby amended to read as follows:

"(1) Dismissal payments, provided, however, that such separation payments in excess of those covering a period of eight (8) weeks and an Armed Services severance payment paid to a former member of the United States Armed Services shall not be disqualifying under the terms of this subsection.

For the purpose of this subsection, supplemental unemployment benefit payments shall not be considered dismissal payments."

SECTION 6. Paragraph (4) of Subsection (f) of Section 5 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1106(f)(4) is hereby amended to read as follows:

"(4) For weeks of unemployment which begin after December 1, 1981, any governmental or other pension, retirement or retired pay, annuity or any other similar periodic payment received with respect to such week and which is based on the previous work of any individual claiming benefits; provided, that the amount of unemployment benefits payable to such individual for such week shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment which is reasonably attributable to such week. Provided, further, however, that the provisions of this paragraph shall not apply to military retirement pay which is based on work prior to the individual's base period. For purposes of the

provisions of this paragraph, 'military retirement pay' is defined as a periodic payment made by the Federal Government to former members of the armed forces of the United States which is based upon their length of service in the armed forces."

SECTION 7. Subparagraph (III) of Paragraph (3) of Subsection (c) of Section 7 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1108 (c)(3)(III), as amended by Section 6 of Act 609 of 1975, is hereby amended to read as follows:

"(III) Each employer shall be required to pay a stabilization tax on wages paid by him with respect to employment. This stabilization tax shall not be credited to the separate account of each employer.

For rate years beginning January 1, 1983 and January 1, 1984, the stabilization tax shall be eight-tenths of one percent (0.8%).

For For the rate year beginning January 1, 1985, the stabilization tax shall be five-tenths of one percent (0.5%).

For rate years beginning on and after January 1, 1986, the stabilization tax shall be determined as follows:

If the assets of the Fund on the computation date are equal to or greater than two percent (2.0%) but less than two and one-half percent (2.5%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be one-tenth of one percent (0.1%).

If the assets of the Fund on the computation date are greater than one and one-half percent (1 1/2%) but less than two percent (2%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be two-tenths of one percent (0.2%).

If the assets of the Fund on the computation date are greater than one percent (1%) but less than one and one-half percent (1 1/2%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be three-tenths of one percent (0.3%).

If the assets of the Fund on the computation date are greater than one-half of one percent (1/2%) but less than one percent (1.0%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be four-tenths on one percent (0.4%).

If the assets of the Fund on the computation date are less than one-half of one percent (1/2%) of total payrolls for employment during the preceding

calendar year, the stabilization tax shall be five-tenths of one percent (0.5%).

Each employer eligible for experience rating under subsection 7(c)(3)(II)(A) shall have his contribution rate reduced by one-tenth of one percent (0.1%) for any rate year when the assets of the Fund on the computation date are greater than five percent (5.0%) of total payrolls for employment during the preceding calendar year.

Employers who have elected to reimburse the Fund in lieu of contributions under subsections 7(h) or 8(d) shall be excluded from the provisions of this subsection, or any experience rate computation.

The provisions of this subsection shall not be effective for any rate year when the assets of the Fund, excluding contributions not yet paid, on the computation date equal or exceed two and one-half percent (2.5%) but are less than five percent (5.0%) of total payrolls for employment during the preceding calendar year. For the purposes of this subsection, total payrolls shall exclude payrolls of employers who have elected to reimburse the Fund in lieu of contributions under subsections 7(h) or 8(d).

For the purposes of this subsection, the assets of the Fund as of the computation date shall include only contributions which were paid on or before June 30, the computation date. It shall include any accounts receivable from the United States for their share of extended benefit payments which have been paid from the Fund and any accounts receivable from employers who have elected to reimburse the Fund for benefits paid under subsections 7(h) or 8(d), but shall exclude the assets of the Extended Benefit Account and shall be reduced by any outstanding advances owed to the Federal government."

SECTION 8. Subsection (d) of Section 7 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1108(d) is hereby amended to read as follows:

"(d) For the purposes of subsections (a) and (b) of this section, wages shall not include that part of remuneration paid to an individual by an employer or his predecessor with respect to the employment during any calendar year which exceeds seven thousand five hundred dollars (\$7,500) in any calendar year beginning on and after January 1, 1983 unless that part of the remuneration is subject to a tax under a federal law imposing a tax against which credit may be taken for contributions required to be paid into a state

unemployment fund.

For the purposes of this subsection, the term 'employment' shall include service constituting employment under any unemployment compensation law of another state."

SECTION 9. Section 10 of Act 391 of 1941, as amended, the same being Arkansas Statutes 81-1113 is hereby amended to read as follows:

"Section 10. Employment Security Division Created-Appointment of Administrator. There is hereby created in the Department of Labor a division to be known as the Employment Security Division which shall be administered by a full-time salaried administrator, who shall be appointed by and serve at the pleasure of the Governor. Said Administrator shall have resided in the State for at least five (5) years and shall be a qualified elector.

Before entering upon his duties, the Administrator shall take and subscribe, and file in the Office of the Secretary of State, an oath to support the Constitution of the United States and the Constitution of the State of Arkansas, and to faithfully perform the duties of the office upon which he is about to enter.

The Administrator shall be subject to the supervision and direction of the Director of Labor, and the Director shall prescribe the duties of said Administrator. The Director may delegate to the Administrator such power and authority as he deems reasonable and proper for the effective administration of this Act, and may, in his discretion, require such person to make bond, with a corporate surety, conditioned that he will faithfully perform his duties and properly account for all funds received and disbursed by him.

The Administrator shall be agent for service of process for all legal actions arising under this Law or to which the Employment Security Division shall be named a party."

SECTION 10. Paragraph (5) of Subsection (a) of Section 21 of Act 35 of 1971, as amended, the same being Arkansas Statutes 81-1124(a) (5) is hereby amended to read as follows:

"(5) There is a State 'off' indicator for a week if, for the period consisting of such week and the immediately preceding twelve (12) weeks, either subparagraph (A) or (B) of paragraph (4) was not satisfied."

SECTION 11. If any portion of this Act should be held to be unconstitutional or invalid, such holding shall in no way invalidate other provisions of the Act and to this end such various sections and provisions of this Act are considered and determined to be severable.

SECTION 12. All laws and parts of laws in conflict with this Act are hereby repealed.

SECTION 13. It is hereby found and determined by the General Assembly that because of the case *Ricarte v. State*, CR 86-31, a question has arisen over the validity of Act 1083 of the Extended Session of 1976; that this Act is a reenactment of the former law; and that the immediate passage of this Act is necessary to clarify the state of the law on this issue. Therefore, an emergency is hereby declared to exist, and this Act being necessary for the immediate preservation of the public peace, health and safety, shall be in full force and effect from and after its passage and approval.

