



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB6696

by Rep. Jack D. Franks

SYNOPSIS AS INTRODUCED:

820 ILCS 405/409

from Ch. 48, par. 409

Amends the Unemployment Insurance Act. Sets forth alternate criteria for determining whether a "State 'on' indicator" or a "State 'off' indicator" exists for purposes of determining whether an extended benefit period is in effect. Changes criteria for determining the extended benefits to which an eligible exhaustee is entitled. Provides that an individual who would otherwise be eligible for extended benefits shall exhaust all entitlement to emergency unemployment compensation under the federal Supplemental Appropriations Act, 2008 or any similar federal law before receiving those extended benefits. Makes other changes. Effective immediately.

LRB095 22450 WGH 52792 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning unemployment insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Section 409 as follows:

6 (820 ILCS 405/409) (from Ch. 48, par. 409)

7 Sec. 409. Extended Benefits.

8 A. For the purposes of this Section:

9 1. "Extended benefit period" means a period which
10 begins with the third week after a week for which there is
11 a State "on" indicator; and ends with either of the
12 following weeks, whichever occurs later: (1) the third week
13 after the first week for which there is a State "off"
14 indicator, or (2) the thirteenth consecutive week of such
15 period. No extended benefit period shall begin by reason of
16 a State "on" indicator before the fourteenth week following
17 the end of a prior extended benefit period.

18 2. There is a "State 'on' indicator" for a week:

19 (a) if the Director determines, in accordance with
20 the regulations of the United States Secretary of Labor
21 or other appropriate Federal agency, that for the
22 period consisting of such week and the immediately
23 preceding twelve weeks, the rate of insured

1 unemployment (not seasonally adjusted) in this State
2 ~~(a) equaled or exceeded 4% and equaled or exceeded 120%~~
3 ~~of the average of such rates for the corresponding~~
4 ~~13-week period ending in each of the preceding two~~
5 ~~calendar years, or (b) equaled or exceeded 5%; for~~
6 ~~weeks beginning after September 25, 1982 (1) equaled or~~
7 exceeded 5% and equaled or exceeded 120% of the average
8 of such rates for the corresponding 13-week period
9 ending in each of the preceding 2 calendar years, or
10 (2) equaled or exceeded 6 percent; or

11 (b) if the United States Secretary of Labor
12 determines that (1) the average rate of total
13 unemployment in this State (seasonally adjusted) for
14 the period of the most recent 3 months for which data
15 for all states are published before the close of the
16 week equals or exceeds 6.5%, and (2) the average rate
17 of total unemployment in this State (seasonally
18 adjusted) for the 3-month period referred to in clause
19 (1) equals or exceeds 110% of the average for either
20 (or both) of the corresponding 3-month periods ending
21 in the 2 preceding calendar years.

22 3. There is a "State 'off' indicator" for a week:

23 (a) if the Director determines, in accordance with
24 the regulations of the United States Secretary of Labor
25 or other appropriate Federal agency, that for the
26 period consisting of such week and the immediately

1 preceding twelve weeks, the rate of insured
2 unemployment (not seasonally adjusted) in this State
3 ~~(a) was less than 5% and was less than 120% of the~~
4 ~~average of such rates for the corresponding 13-week~~
5 ~~period ending in each of the preceding 2 calendar~~
6 ~~years, or (b) was less than 4%; and for weeks beginning~~
7 ~~after September 25, 1982,~~ (1) was less than 6% and less
8 than 120% of the average of such rates for the
9 corresponding 13-week period ending in each of the
10 preceding 2 calendar years, or (2) was less than 5%;
11 and

12 (b) if the United States Secretary of Labor
13 determines that (1) the average rate of total
14 unemployment in this State (seasonally adjusted) for
15 the period of the most recent 3 months for which data
16 for all states are published before the close of the
17 week was less than 6.5%, or (2) the average rate of
18 total unemployment in this State (seasonally adjusted)
19 for the 3-month period referred to in clause (1) is
20 less than 110% of the average for both of the
21 corresponding 3-month periods ending in the 2
22 preceding calendar years.

23 4. "Rate of insured unemployment", for the purpose of
24 paragraphs 2 and 3, means the percentage derived by
25 dividing (a) the average weekly number of individuals
26 filing claims for "regular benefits" in this State for

1 weeks of unemployment with respect to the most recent 13
2 consecutive week period, as determined by the Director on
3 the basis of his reports to the United States Secretary of
4 Labor or other appropriate Federal agency, by (b) the
5 average monthly employment covered under this Act for the
6 first four of the most recent six completed calendar
7 quarters ending before the close of such 13-week period.

8 5. "Regular benefits" means benefits, other than
9 extended benefits and additional benefits, payable to an
10 individual (including dependents' allowances) under this
11 Act or under any other State unemployment compensation law
12 (including benefits payable to Federal civilian employees
13 and ex-servicemen pursuant to 5 U.S.C. chapter 85).

14 6. "Extended benefits" means benefits (including
15 benefits payable to Federal civilian employees and
16 ex-servicemen pursuant to 5 U.S.C. chapter 85) payable to
17 an individual under the provisions of this Section for
18 weeks which begin in his eligibility period.

19 7. "Additional benefits" means benefits totally
20 financed by a State and payable to exhaustees (as defined
21 in subsection C) by reason of conditions of high
22 unemployment or by reason of other specified factors. If an
23 individual is eligible to receive extended benefits under
24 the provisions of this Section and is eligible to receive
25 additional benefits with respect to the same week under the
26 law of another State, he may elect to claim either extended

1 benefits or additional benefits with respect to the week.

2 8. "Eligibility period" means the period consisting of
3 the weeks in an individual's benefit year which begin in an
4 extended benefit period and, if his benefit year ends
5 within such extended benefit period, any weeks thereafter
6 which begin in such period.

7 9. Notwithstanding any of the provisions of Sections
8 1404, 1405B, and 1501, no employer shall be liable for
9 payments in lieu of contributions, and wages shall not
10 become benefit wages, by reason of the payment of extended
11 benefits which are wholly reimbursed to this State by the
12 Federal Government. With respect to extended benefits,
13 paid prior to July 1, 1989, wages shall become benefit
14 wages under Section 1501 only when an individual is first
15 paid such benefits with respect to his eligibility period
16 which are not wholly reimbursed to this State by the
17 Federal Government. Extended benefits, paid on or after
18 July 1, 1989, shall become benefit charges under Section
19 1501.1 only when any individual is paid such benefits with
20 respect to his eligibility period which are not wholly
21 reimbursed by the Federal Government.

22 B. An individual shall be eligible to receive extended
23 benefits pursuant to this Section for any week which begins in
24 his eligibility period if, with respect to such week (1) he has
25 been paid wages for insured work during his base period equal
26 to at least 1 1/2 times the wages paid in that calendar quarter

1 of his base period in which such wages were highest, provided
2 that this provision applies only with respect to weeks
3 beginning after September 25, 1982; (2) he has met the
4 requirements of Section 500E of this Act; (3) he is an
5 exhaustee; and (4) except when the result would be inconsistent
6 with the provisions of this Section, he has satisfied the
7 requirements of this Act for the receipt of regular benefits.

8 C. An individual is an exhaustee with respect to a week
9 which begins in his eligibility period if:

10 1. Prior to such week (a) he has received, with respect
11 to his current benefit year that includes such week, the
12 maximum total amount of benefits to which he was entitled
13 under the provisions of Section 403B, and all of the
14 regular benefits (including dependents' allowances) to
15 which he had entitlement (if any) on the basis of wages or
16 employment under any other State unemployment compensation
17 law; or (b) he has received all the regular benefits
18 available to him with respect to his current benefit year
19 that includes such week, under this Act and under any other
20 State unemployment compensation law, after a cancellation
21 of some or all of his wage credits or the partial or total
22 reduction of his regular benefit rights; or (c) his benefit
23 year terminated, and he cannot meet the qualifying wage
24 requirements of Section 500E of this Act or the qualifying
25 wage or employment requirements of any other State
26 unemployment compensation law to establish a new benefit

1 year which would include such week or, having established a
2 new benefit year that includes such week, he is ineligible
3 for regular benefits by reason of Section 607 of this Act
4 or a like provision of any other State unemployment
5 compensation law; and

6 2. For such week (a) he has no right to benefits or
7 allowances, as the case may be, under the Railroad
8 Unemployment Insurance Act, or such other Federal laws as
9 are specified in regulations of the United States Secretary
10 of Labor or other appropriate Federal agency; and (b) he
11 has not received and is not seeking benefits under the
12 unemployment compensation law of Canada, except that if he
13 is seeking such benefits and the appropriate agency finally
14 determines that he is not entitled to benefits under such
15 law, this clause shall not apply.

16 3. For the purposes of clauses (a) and (b) of paragraph
17 1 of this subsection, an individual shall be deemed to have
18 received, with respect to his current benefit year, the
19 maximum total amount of benefits to which he was entitled
20 or all of the regular benefits to which he had entitlement,
21 or all of the regular benefits available to him, as the
22 case may be, even though (a) as a result of a pending
23 reconsideration or appeal with respect to the "finding"
24 defined in Section 701, or of a pending appeal with respect
25 to wages or employment or both under any other State
26 unemployment compensation law, he may subsequently be

1 determined to be entitled to more regular benefits; or (b)
2 by reason of a seasonality provision in a State
3 unemployment compensation law which establishes the weeks
4 of the year for which regular benefits may be paid to
5 individuals on the basis of wages in seasonal employment he
6 may be entitled to regular benefits for future weeks but
7 such benefits are not payable with respect to the week for
8 which he is claiming extended benefits, provided that he is
9 otherwise an exhaustee under the provisions of this
10 subsection with respect to his rights to regular benefits,
11 under such seasonality provision, during the portion of the
12 year in which that week occurs; or (c) having established a
13 benefit year, no regular benefits are payable to him with
14 respect to such year because his wage credits were
15 cancelled or his rights to regular benefits were totally
16 reduced by reason of the application of a disqualification
17 provision of a State unemployment compensation law.

18 D. 1. The provisions of Section 607 and the waiting period
19 requirements of Section 500D shall not be applicable to any
20 week with respect to which benefits are otherwise payable
21 under this Section.

22 2. An individual shall not cease to be an exhaustee
23 with respect to any week solely because he meets the
24 qualifying wage requirements of Section 500E for a part of
25 such week.

26 3. For the purposes of this Section, the "base period"

1 referred to in Sections 601 and 602 shall be the base
2 period with respect to the benefit year in which the
3 individual's eligibility period begins.

4 E. With respect to any week which begins in his eligibility
5 period, an exhaustee's "weekly extended benefit amount" shall
6 be the same as his weekly benefit amount during his benefit
7 year which includes such week or, if such week is not in a
8 benefit year, during his applicable benefit year, as defined in
9 regulations issued by the United States Secretary of Labor or
10 other appropriate Federal agency. If the exhaustee had more
11 than one weekly benefit amount during his benefit year, his
12 weekly extended benefit amount with respect to such week shall
13 be the latest of such weekly benefit amounts.

14 F. An eligible exhaustee shall be entitled, during any
15 eligibility period, to a maximum total amount of extended
16 benefits equal to the lesser of the following amounts:

17 1. Fifty percent of the maximum total amount of
18 benefits to which he was entitled under Section 403B during
19 his applicable benefit year; or

20 2. Thirteen times his weekly extended benefit amount as
21 determined under subsection E.

22 2.1. Effective with respect to weeks beginning in a
23 high unemployment period, this subsection F shall be
24 applied by substituting "eighty" for "fifty" in paragraph 1
25 and "twenty" for "thirteen" in paragraph 2. For purposes of
26 this paragraph, the term "high unemployment period" means

1 any period during which an extended benefit period would be
2 in effect if paragraph 2 of subsection A were applied by
3 substituting "8%" for "6.5%".

4 3. Notwithstanding subparagraphs 1, ~~and 2,~~ and 2.1 of
5 this subsection F, and if the benefit year of an individual
6 ends within an extended benefit period, the remaining
7 balance of extended benefits that the individual would, but
8 for this subsection F, be otherwise entitled to receive in
9 that extended benefit period, for weeks of unemployment
10 beginning after the end of the benefit year, shall be
11 reduced (but not below zero) by the product of the number
12 of weeks for which the individual received any amounts as
13 trade readjustment allowances as defined in the federal
14 Trade Act of 1974 within that benefit year multiplied by
15 his weekly benefit amount for extended benefits.

16 G. 1. A claims adjudicator shall examine the first claim
17 filed by an individual with respect to his eligibility
18 period and, on the basis of the information in his
19 possession, shall make an "extended benefits finding".
20 Such finding shall state whether or not the individual has
21 met the requirement of subsection B(1), is an exhaustee
22 and, if he is, his weekly extended benefit amount and the
23 maximum total amount of extended benefits to which he is
24 entitled. The claims adjudicator shall promptly notify the
25 individual of his "extended benefits finding", and shall
26 promptly notify the individual's most recent employing

1 unit, with respect to benefit years beginning on or after
2 July 1, 1989 and the individual's last employer (referred
3 to in Section 1502.1) that the individual has filed a claim
4 for extended benefits. The claims adjudicator may
5 reconsider his "extended benefits finding" at any time
6 within one year after the close of the individual's
7 eligibility period, and shall promptly notify the
8 individual of such reconsidered finding. All of the
9 provisions of this Act applicable to reviews from findings
10 or reconsidered findings made pursuant to Sections 701 and
11 703 which are not inconsistent with the provisions of this
12 subsection shall be applicable to reviews from extended
13 benefits findings and reconsidered extended benefits
14 findings.

15 2. If, pursuant to the reconsideration or appeal with
16 respect to a "finding", referred to in paragraph 3 of
17 subsection C, an exhaustee is found to be entitled to more
18 regular benefits and, by reason thereof, is entitled to
19 more extended benefits, the claims adjudicator shall make a
20 reconsidered extended benefits finding and shall promptly
21 notify the exhaustee thereof.

22 H. Whenever an extended benefit period is to begin in this
23 State because there is a State "on" indicator, or whenever an
24 extended benefit period is to end in this State because there
25 is a State "off" indicator, the Director shall make an
26 appropriate public announcement.

1 I. Computations required by the provisions of paragraph 6
2 of subsection A shall be made by the Director in accordance
3 with regulations prescribed by the United States Secretary of
4 Labor, or other appropriate Federal agency.

5 J. 1. Interstate Benefit Payment Plan means the plan
6 approved by the Interstate Conference of Employment
7 Security Agencies under which benefits shall be payable to
8 unemployed individuals absent from the state (or states) in
9 which benefit credits have been accumulated.

10 2. An individual who commutes from his state of
11 residence to work in another state and continues to reside
12 in such state of residence while filing his claim for
13 unemployment insurance under this Section of the Act shall
14 not be considered filing a claim under the Interstate
15 Benefit Payment Plan so long as he files his claim in and
16 continues to report to the employment office under the
17 regulations applicable to intrastate claimants in the
18 state in which he was so employed.

19 3. "State" when used in this subsection includes States
20 of the United States of America, the District of Columbia,
21 Puerto Rico and the Virgin Islands. For purposes of this
22 subsection, the term "state" shall also be construed to
23 include Canada.

24 4. Notwithstanding any other provision of this Act,
25 effective with weeks beginning on or after June 1, 1981 an
26 individual shall be eligible for a maximum of 2 weeks of

1 benefits payable under this Section after he files his
2 initial claim for extended benefits in an extended benefit
3 period, as defined in paragraph 1 of subsection A, under
4 the Interstate Benefit Payment Plan unless there also
5 exists an extended benefit period, as defined in paragraph
6 1 of subsection A, in the state where such claim is filed.
7 Such maximum eligibility shall continue as long as the
8 individual continues to file his claim under the Interstate
9 Benefit Payment Plan, notwithstanding that the individual
10 moves to another state where an extended benefit period
11 exists and files for weeks prior to his initial Interstate
12 claim in that state.

13 5. To assure full tax credit to the employers of this
14 state against the tax imposed by the Federal Unemployment
15 Tax Act, the Director shall take any action or issue any
16 regulations necessary in the administration of this
17 subsection to insure that its provisions are so interpreted
18 and applied as to meet the requirements of such Federal Act
19 as interpreted by the United States Secretary of Labor or
20 other appropriate Federal agency.

21 K. 1. Notwithstanding any other provisions of this Act, an
22 individual shall be ineligible for the payment of extended
23 benefits for any week of unemployment in his eligibility
24 period if the Director finds that during such period:

25 a. he failed to accept any offer of suitable work
26 (as defined in paragraph 3 below) or failed to apply

1 for any suitable work to which he was referred by the
2 Director; or

3 b. he failed to actively engage in seeking work as
4 prescribed under paragraph 5 below.

5 2. Any individual who has been found ineligible for
6 extended benefits by reason of the provisions of paragraph
7 1 of this subsection shall be denied benefits beginning
8 with the first day of the week in which such failure has
9 occurred and until he has been employed in each of 4
10 subsequent weeks (whether or not consecutive) and has
11 earned remuneration equal to at least 4 times his weekly
12 benefit amount.

13 3. For purposes of this subsection only, the term
14 "suitable work" means, with respect to any individual, any
15 work which is within such individual's capabilities,
16 provided, however, that the gross average weekly
17 remuneration payable for the work must exceed the sum of:

18 a. the individual's extended weekly benefit amount
19 as determined under subsection E above plus

20 b. the amount, if any, of supplemental
21 unemployment benefits (as defined in Section
22 501(c)(17)(D) of the Internal Revenue Code of 1954)
23 payable to such individual for such week; and further,

24 c. pays wages not less than the higher of --

25 (i) the minimum wage provided by Section 6

26 (a)(1) of the Fair Labor Standards Act of 1938,

1 without regard to any exemption; or

2 (ii) the applicable state or local minimum
3 wage;

4 d. provided, however, that no individual shall be
5 denied extended benefits for failure to accept an offer
6 of or apply for any job which meets the definition of
7 suitability as described above if:

8 (i) the position was not offered to such
9 individual in writing or was not listed with the
10 employment service;

11 (ii) such failure could not result in a denial
12 of benefits under the definition of suitable work
13 for regular benefits claimants in Section 603 to
14 the extent that the criteria of suitability in that
15 Section are not inconsistent with the provisions
16 of this paragraph 3;

17 (iii) the individual furnishes satisfactory
18 evidence to the Director that his prospects for
19 obtaining work in his customary occupation within
20 a reasonably short period are good. If such
21 evidence is deemed satisfactory for this purpose,
22 the determination of whether any work is suitable
23 with respect to such individual shall be made in
24 accordance with the definition of suitable work
25 for regular benefits in Section 603 without regard
26 to the definition specified by this paragraph.

1 4. Notwithstanding the provisions of paragraph 3 to the
2 contrary, no work shall be deemed to be suitable work for
3 an individual which does not accord with the labor standard
4 provisions required by Section 3304(a)(5) of the Internal
5 Revenue Code of 1954 and set forth herein under Section 603
6 of this Act.

7 5. For the purposes of subparagraph b of paragraph 1,
8 an individual shall be treated as actively engaged in
9 seeking work during any week if --

10 a. the individual has engaged in a systematic and
11 sustained effort to obtain work during such week, and

12 b. the individual furnishes tangible evidence that
13 he has engaged in such effort during such week.

14 6. The employment service shall refer any individual
15 entitled to extended benefits under this Act to any
16 suitable work which meets the criteria prescribed in
17 paragraph 3.

18 7. Notwithstanding any other provision of this Act, an
19 individual shall not be eligible to receive extended
20 benefits, otherwise payable under this Section, with
21 respect to any week of unemployment in his eligibility
22 period if such individual has been held ineligible for
23 benefits under the provisions of Sections 601, 602 or 603
24 of this Act until such individual had requalified for such
25 benefits by returning to employment and satisfying the
26 monetary requalification provision by earning at least his

1 weekly benefit amount.

2 8. This subsection shall be effective for weeks
3 beginning on or after March 31, 1981, and before March 7,
4 1993, and for weeks beginning on or after January 1, 1995.

5 L. Notwithstanding any other provision of this Act to the
6 contrary, an individual who would otherwise be eligible for
7 benefits under this Section shall exhaust all entitlement to
8 emergency unemployment compensation under the federal
9 Supplemental Appropriations Act, 2008 or any similar federal
10 law prior to receiving any benefits for which he or she might
11 otherwise be eligible under this Section.

12 M. If, pursuant to subdivision 2(b) of subsection A of this
13 Section, there is an "on" indicator for the week in which this
14 amendatory Act of the 95th General Assembly takes effect, this
15 Section shall be applied as though that week is the first week
16 for which there is an "on" indicator pursuant to subdivision
17 2(b) of subsection A of this Section.

18 (Source: P.A. 86-3; 87-1266.)

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.