



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB2561

by Rep. Theresa Mah

SYNOPSIS AS INTRODUCED:

820 ILCS 405/612

from Ch. 48, par. 442

Amends the Unemployment Insurance Act. In the case of a college or university meeting certain criteria, for services performed in an instructional, research, or principal administrative capacity, provides that a person is presumed not to have reasonable assurance of employment under an offer that is conditioned on enrollment, funding, or program changes. Provides that: it is the employer's burden to provide sufficient documentation to overcome the presumption; reasonable assurance must be determined on a case-by-case basis by the total weight of the evidence rather than the existence of any one factor; and primary weight must be given to the contingent nature of an offer of employment based on enrollment, funding, and program changes. Provides that a letter from an employer to an employee that makes employment conditional is not prima facie evidence of reasonable assurance to be used to deny a claim for unemployment insurance.

LRB101 10990 JLS 56174 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning employment.

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 612 as follows:

6 (820 ILCS 405/612) (from Ch. 48, par. 442)

7 Sec. 612. Academic Personnel - Ineligibility between
8 academic years or terms.

9 A. Benefits based on wages for services which are
10 employment under the provisions of Sections 211.1, 211.2, and
11 302C shall be payable in the same amount, on the same terms,
12 and subject to the same conditions as benefits payable on the
13 basis of wages for other services which are employment under
14 this Act; except that:

15 1. An individual shall be ineligible for benefits, on
16 the basis of wages for employment in an instructional,
17 research, or principal administrative capacity performed
18 for an institution of higher education, for any week which
19 begins during the period between two successive academic
20 years, or during a similar period between two regular
21 terms, whether or not successive, or during a period of
22 paid sabbatical leave provided for in the individual's
23 contract, if the individual has a contract or contracts to

1 perform services in any such capacity for any institution
2 or institutions of higher education for both such academic
3 years or both such terms.

4 This paragraph 1 shall apply with respect to any week
5 which begins prior to January 1, 1978.

6 2. An individual shall be ineligible for benefits, on
7 the basis of wages for service in employment in any
8 capacity other than those referred to in paragraph 1,
9 performed for an institution of higher learning, for any
10 week which begins after September 30, 1983, during a period
11 between two successive academic years or terms, if the
12 individual performed such service in the first of such
13 academic years or terms and there is a reasonable assurance
14 that the individual will perform such service in the second
15 of such academic years or terms.

16 3. An individual shall be ineligible for benefits, on
17 the basis of wages for service in employment in any
18 capacity other than those referred to in paragraph 1,
19 performed for an institution of higher education, for any
20 week which begins after January 5, 1985, during an
21 established and customary vacation period or holiday
22 recess, if the individual performed such service in the
23 period immediately before such vacation period or holiday
24 recess and there is a reasonable assurance that the
25 individual will perform such service in the period
26 immediately following such vacation period or holiday

1 recess.

2 B. Benefits based on wages for services which are
3 employment under the provisions of Sections 211.1 and 211.2
4 shall be payable in the same amount, on the same terms, and
5 subject to the same conditions, as benefits payable on the
6 basis of wages for other services which are employment under
7 this Act, except that:

8 1. An individual shall be ineligible for benefits, on
9 the basis of wages for service in employment in an
10 instructional, research, or principal administrative
11 capacity performed for an educational institution, for any
12 week which begins after December 31, 1977, during a period
13 between two successive academic years, or during a similar
14 period between two regular terms, whether or not
15 successive, or during a period of paid sabbatical leave
16 provided for in the individual's contract, if the
17 individual performed such service in the first of such
18 academic years (or terms) and if there is a contract or a
19 reasonable assurance that the individual will perform
20 service in any such capacity for any educational
21 institution in the second of such academic years (or
22 terms).

23 2. An individual shall be ineligible for benefits, on
24 the basis of wages for service in employment in any
25 capacity other than those referred to in paragraph 1,
26 performed for an educational institution, for any week

1 which begins after December 31, 1977, during a period
2 between two successive academic years or terms, if the
3 individual performed such service in the first of such
4 academic years or terms and there is a reasonable assurance
5 that the individual will perform such service in the second
6 of such academic years or terms.

7 3. An individual shall be ineligible for benefits, on
8 the basis of wages for service in employment in any
9 capacity performed for an educational institution, for any
10 week which begins after January 5, 1985, during an
11 established and customary vacation period or holiday
12 recess, if the individual performed such service in the
13 period immediately before such vacation period or holiday
14 recess and there is a reasonable assurance that the
15 individual will perform such service in the period
16 immediately following such vacation period or holiday
17 recess.

18 4. An individual shall be ineligible for benefits on
19 the basis of wages for service in employment in any
20 capacity performed in an educational institution while in
21 the employ of an educational service agency for any week
22 which begins after January 5, 1985, (a) during a period
23 between two successive academic years or terms, if the
24 individual performed such service in the first of such
25 academic years or terms and there is a reasonable assurance
26 that the individual will perform such service in the second

1 of such academic years or terms; and (b) during an
2 established and customary vacation period or holiday
3 recess, if the individual performed such service in the
4 period immediately before such vacation period or holiday
5 recess and there is a reasonable assurance that the
6 individual will perform such service in the period
7 immediately following such vacation period or holiday
8 recess. The term "educational service agency" means a
9 governmental agency or governmental entity which is
10 established and operated exclusively for the purpose of
11 providing such services to one or more educational
12 institutions.

13 C. 1. If benefits are denied to any individual under the
14 provisions of paragraph 2 of either subsection A or B of this
15 Section for any week which begins on or after September 3, 1982
16 and such individual is not offered a bona fide opportunity to
17 perform such services for the educational institution for the
18 second of such academic years or terms, such individual shall
19 be entitled to a retroactive payment of benefits for each week
20 for which the individual filed a timely claim for benefits as
21 determined by the rules and regulations issued by the Director
22 for the filing of claims for benefits, provided that such
23 benefits were denied solely because of the provisions of
24 paragraph 2 of either subsection A or B of this Section.

25 2. If benefits on the basis of wages for service in
26 employment in other than an instructional, research, or

1 principal administrative capacity performed in an educational
2 institution while in the employ of an educational service
3 agency are denied to any individual under the provisions of
4 subparagraph (a) of paragraph 4 of subsection B and such
5 individual is not offered a bona fide opportunity to perform
6 such services in an educational institution while in the employ
7 of an educational service agency for the second of such
8 academic years or terms, such individual shall be entitled to a
9 retroactive payment of benefits for each week for which the
10 individual filed a timely claim for benefits as determined by
11 the rules and regulations issued by the Director for the filing
12 of claims for benefits, provided that such benefits were denied
13 solely because of subparagraph (a) of paragraph 4 of subsection
14 B of this Section.

15 In the case of colleges or universities assigned the North
16 American Industry Classification code 611310 or 611210, for
17 services performed in an instructional, research, or principal
18 administrative capacity, a person is presumed not to have
19 reasonable assurance of employment under an offer that is
20 conditioned on enrollment, funding, or program changes. It is
21 the employer's burden to provide sufficient documentation to
22 overcome this presumption. Reasonable assurance must be
23 determined on a case-by-case basis by the total weight of the
24 evidence rather than the existence of any one factor. Primary
25 weight must be given to the contingent nature of an offer of
26 employment based on enrollment, funding, and program changes.

1 In an unemployment insurance proceeding, a written letter from
2 an employer to an employee that makes employment conditional is
3 not prima facie evidence of reasonable assurance to be used to
4 deny a claim for unemployment insurance.

5 (Source: P.A. 87-1178.)