



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3009

Introduced 1/5/2022, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

820 ILCS 405/612

from Ch. 48, par. 442

Amends the Unemployment Insurance Act. In a provision making certain academic personnel ineligible for unemployment benefits during the period between 2 successive academic years if there is a reasonable assurance such individuals would perform services for the educational institution during the period immediately following the first academic year or term, provides that in order for there to be "reasonable assurance" certain requirements must be met, including, but not limited to: (i) the educational institution has made an offer of employment in the following academic year or term that is either written, oral, or implied; (ii) the employment offered in the following academic year or term is in the same capacity; and (iii) based on a totality of the circumstances, it is highly probable that there is a job available for the claimant in the following academic year or term. Requires determinations by the Department of Employment Security to be done on a case-by-case basis. Requires each educational institution to provide the Department, in a form prescribed by the Director of Employment Security, no less than 10 business days prior to the end of the academic year or term: (1) a list of all employees who the educational institution has concluded do not have a reasonable assurance of employment in the following academic year or term; and (2) for each employee that the educational institution maintains does have a reasonable assurance of employment in the following academic year or term, a statement explaining the manner in which the employee was given a reasonable assurance of employment. Provides that an educational institution's failure to provide the statement required under item (2) shall result in a rebuttable presumption that the claimant does not have a reasonable assurance of employment in the following academic year or term. Provides that any rules adopted to implement the amendatory Act must meet federal requirements.

LRB102 22163 KTG 31292 b

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 personnel
8 ~~ineligibility~~ between 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
11 period between two successive academic years or terms, if
12 the individual performed such service in the first of such
13 academic years or terms and there is a reasonable
14 assurance that the individual will perform such service in
15 the second 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
5 assurance that the individual will perform such service in
6 the second 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
26 assurance that the individual will perform such service in

1 the second of such academic years or terms; and (b) during
2 an 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
7 employ of an educational service agency for the second of such
8 academic years or terms, such individual shall be entitled to
9 a 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
12 filing of claims for benefits, provided that such benefits
13 were denied solely because of subparagraph (a) of paragraph 4
14 of subsection B of this Section.

15 D. Notwithstanding any other provision in this Section or
16 paragraph 2 of subsection C of Section 500 to the contrary,
17 with respect to a week of unemployment beginning on or after
18 March 15, 2020, and before September 4, 2021~~7~~ (including any
19 week of unemployment beginning on or after January 1, 2021 and
20 on or before June 25, 2021 (the effective date of Public Act
21 102-26) ~~this amendatory Act of the 102nd General Assembly~~),
22 benefits shall be payable to an individual on the basis of
23 wages for employment in other than an instructional, research,
24 or principal administrative capacity performed for an
25 educational institution or an educational service agency under
26 any of the circumstances described in this Section, to the

1 extent permitted under Section 3304(a)(6) of the Federal
2 Unemployment Tax Act, as long as the individual is otherwise
3 eligible for benefits.

4 E. 1. For the purposes of this Section, in order for there
5 to be a "reasonable assurance" all of the following
6 requirements shall be met:

7 (a) The educational institution has made an offer of
8 employment in the following academic year or term that is
9 either written, oral, or implied.

10 (b) The offer of employment in the following academic
11 year or term was made by an individual with actual
12 authority to offer employment.

13 (c) The employment offered in the following academic
14 year or term is in the same capacity.

15 (d) The economic conditions of the employment offered
16 may not be considerably less in the following academic
17 year or term than in the then current academic year or
18 term. As used in this subparagraph, "considerably less"
19 means that the claimant will earn less than 90% of the
20 amount the claimant earned in the then current academic
21 year or term.

22 (e) The offer of employment in the following academic
23 year or term is not contingent upon a factor or factors
24 that are within the educational institution's control,
25 including, but not limited to, course programming,
26 decisions on how to allocate available funding, final

1 course offerings, program changes, and facility
2 availability.

3 (f) Based on a totality of the circumstances, it is
4 highly probable that there is a job available for the
5 claimant in the following academic year or term. If a job
6 offer contains a contingency, primary weight should be
7 given to the contingent nature of the offer of employment.
8 Contingencies that are not necessarily within the
9 educational institution's control, such as funding,
10 enrollment, and seniority, may be taken into consideration
11 but the existence of any one contingency should not
12 determine whether it is highly probably that there is a
13 job available for the claimant in the following academic
14 year or term.

15 2. Determinations by the Department whether claimants have
16 a reasonable assurance shall be done on a case-by-case basis.

17 3. Each educational institution shall provide the
18 following to the Department, in a form, including electronic
19 form, prescribed by the Director, no less than 10 business
20 days prior to the end of the academic year or term:

21 (a) a list of all employees who the educational
22 institution has concluded do not have a reasonable
23 assurance of employment in the following academic year or
24 term, along with information prescribed by the Director
25 regarding each such employee, which information shall
26 include, but not be limited to, name and social security

1 number; and

2 (b) for each employee that the educational institution
3 maintains does have a reasonable assurance of employment
4 in the following academic year or term, a statement
5 explaining the manner in which the employee was given a
6 reasonable assurance of employment, that is, whether it
7 was in writing, oral, or implied, and what information
8 about the offer, including contingencies, was communicated
9 to the individual.

10 4. The statement required under subparagraph (b) of
11 paragraph 3 may be used by the Department in its analysis under
12 paragraphs 1 and 2, but it does not conclusively demonstrate
13 that the claimant has a reasonable assurance of employment in
14 the following academic year or term.

15 5. Failure of an educational institution to provide the
16 statement required under subparagraph (b) of paragraph 3 not
17 less than 10 business days prior to the end of the academic
18 year or term shall result in a rebuttable presumption that the
19 claimant does not have a reasonable assurance of employment in
20 the following academic year or term. This rebuttable
21 presumption shall give rise to an inference that the claimant
22 does not have a reasonable assurance of employment in the
23 following academic year or term, but shall not conclusively
24 demonstrate that the claimant does not have a reasonable
25 assurance of employment in the following academic year or
26 term.

1 6. Any rules adopted to implement this subsection shall
2 meet federal requirements that are a necessary condition to
3 the receipt of federal funds by the State or the granting of
4 federal unemployment tax credits to employers in this State.

5 (Source: P.A. 101-633, eff. 6-5-20; 102-26, eff. 6-25-21;
6 revised 8-3-21.)