



Rep. Frank J. Mautino

**Filed: 5/22/2014**

09800SB3530ham002

LRB098 17883 JLS 60038 a

1 AMENDMENT TO SENATE BILL 3530

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 3530 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Civil Administrative Code of Illinois is  
5 amended by adding Section 5-126 as follows:

6 (20 ILCS 5/5-126 new)

7 Sec. 5-126. In the Department of Employment Security.  
8 Assistant Director of Employment Security.

9 Section 10. The Department of Employment Security Law of  
10 the Civil Administrative Code of Illinois is amended by  
11 changing Section 1005-47 as follows:

12 (20 ILCS 1005/1005-47)

13 Sec. 1005-47. IllinoisJobLink.com.

14 (a) The Department of Employment Security, through its

1 IllinoisJobLink.com System, or a successor system, shall  
2 maintain a web site that allows job seekers to search online  
3 for employment opportunities that match the skills of the  
4 person seeking employment.

5 (b) Each executive branch State agency and any individual  
6 or entity that is party to a contract with an executive branch  
7 State agency, except those individuals or entities that are  
8 party to a contract with a bona fide labor organization and  
9 perform construction or construction-related services as  
10 defined in Section 1-15.20 of the Illinois Procurement Code,  
11 must ~~either (i)~~ post employment vacancies on the Department's  
12 IllinoisJobLink.com System or its successor system ~~or (ii)~~  
13 ~~provide an online link to its employment vacancies so that this~~  
14 ~~link is accessible through the web page of the~~  
15 ~~IllinoisJobLink.com System or its successor system.~~ "State  
16 agency" has the meaning as defined in Section 1-5 of the State  
17 Officials and Employees Ethics Act and, for purposes of this  
18 Section, includes community colleges. "Contract" has the  
19 meaning given to that term in Section 1-15.30 of the Illinois  
20 Procurement Code. The Department of Central Management  
21 Services shall comply with this Section on behalf of executive  
22 branch State agencies with one or more positions subject to any  
23 jurisdiction of the Personnel Code.

24 This Section does not apply to positions exempt from the  
25 requirements of the Rutan decision or to construction-related  
26 services as defined in Section 1-15.20 of the Illinois

1 Procurement Code.

2 (c) All units of local government, school districts, and  
3 other public and private employers not subject to subsection  
4 (b) may, and are encouraged to, post employment vacancies on  
5 the IllinoisJobLink.com System or successor system.

6 (d) The Department may not charge any employer or any  
7 person seeking employment a fee for using the  
8 IllinoisJobLink.com System or successor system.

9 (e) The Department is authorized to adopt all rules  
10 necessary to implement and administer the IllinoisJobLink.com  
11 System or any successor system under this Section.

12 (Source: P.A. 98-107, eff. 7-23-13.)

13 Section 15. The Public Employment Office Act is amended by  
14 changing Section 7 as follows:

15 (20 ILCS 1015/7) (from Ch. 48, par. 183)

16 Sec. 7. No fee or compensation shall be charged or received  
17 directly or indirectly from persons applying for employment or  
18 help through said free employment offices, and any officer or  
19 employee of the Department of Employment Security who shall  
20 accept, directly or indirectly any fee or compensation from any  
21 applicant or from his or her representative shall be guilty of  
22 a Class C misdemeanor, except that this Section does not  
23 prohibit referral of an individual to an apprenticeship program  
24 that is approved by and registered with the United States

1 Department of Labor, Bureau of Apprenticeship and Training and  
2 charges an application fee of \$50 or less.

3 (Source: P.A. 83-1503.)

4 Section 20. The Unemployment Insurance Act is amended by  
5 changing Sections 206.1, 702, 1402, 2101, 2201, 2201.1, 2401,  
6 and 2403 and by adding Sections 502 and 1402.1 as follows:

7 (820 ILCS 405/206.1)

8 Sec. 206.1. Employment; employee leasing company.

9 A. For purposes of this Section:

10 1. "Client" means an individual or entity which has  
11 contracted with an employee leasing company to supply it  
12 with or assume responsibility for personnel management of  
13 one or more workers to perform services on an on-going  
14 basis rather than under a temporary help arrangement, as  
15 defined in Section 15 of the Employee Leasing Company Act.

16 2. "Employee leasing company" means an individual or  
17 entity which contracts with a client to supply or assume  
18 responsibility for personnel management of one or more  
19 workers to perform services for the client on an on-going  
20 basis rather than under a temporary help arrangement, as  
21 defined in Section 15 of the Employee Leasing Company Act.

22 B. Subject to subsection C, services performed by an  
23 individual under a contract between an employee leasing company  
24 and client, including but not limited to services performed in

1 the capacity of a corporate officer of the client, are services  
2 in "employment" of the employee leasing company and are not  
3 services in "employment" of the client if all of the following  
4 conditions are met:

5 1. The employee leasing company pays the individual for  
6 the services directly from its own accounts; and

7 2. The employee leasing company, exclusively or in  
8 conjunction with the client, retains the right to direct  
9 and control the individual in the performance of the  
10 services; and

11 3. The employee leasing company, exclusively or in  
12 conjunction with the client, retains the right to hire and  
13 terminate the individual; and

14 4. The employee leasing company reports each client in  
15 the manner the Director prescribes by regulation; and -

16 5. The employee leasing company has provided, and there  
17 remains in effect, such irrevocable indemnification, as  
18 the Director may require by rule, to create a primary  
19 obligation on the part of the provider to the Illinois  
20 Department of Employment Security for obligations of the  
21 employee leasing company accrued and final under this Act.  
22 The rule may prescribe the form the indemnification shall  
23 take including, but not limited to, a surety bond or an  
24 irrevocable standby letter of credit. The obligation  
25 required pursuant to the rule shall not exceed \$1,000,000.

26 C. Notwithstanding subsection B, services performed by an

1 individual under a contract between an employee leasing company  
2 and client, including but not limited to services performed in  
3 the capacity of a corporate officer of the client, are services  
4 in "employment" of the client and are not services in  
5 "employment" of the employee leasing company if:

6 1. The contribution rate, or, where applicable, the  
7 amended contribution rate, of the client is greater than  
8 the sum of the fund building rate established for the year  
9 pursuant to Section 1506.3 of this Act plus the greater of  
10 2.7% or 2.7% times the adjusted state experience factor for  
11 the year; and

12 2. The contribution rate, or, where applicable, the  
13 amended contribution rate, of the employee leasing company  
14 is less than the contribution rate, or, where applicable,  
15 the amended contribution rate of the client by more than  
16 1.5% absolute.

17 D. Except as provided in this Section and notwithstanding  
18 any other provision of this Act to the contrary, services  
19 performed by an individual under a contract between an employee  
20 leasing company and client, including but not limited to  
21 services performed in the capacity of a corporate officer of  
22 the client, are services in "employment" of the client and are  
23 not services in "employment" of the employee leasing company.

24 E. Nothing in this Section shall be construed or used to  
25 effect the existence of an employment relationship other than  
26 for purposes of this Act.

1 (Source: P.A. 91-890, eff. 7-6-00.)

2 (820 ILCS 405/502 new)

3 Sec. 502. Eligibility for benefits under the Short-Time  
4 Compensation Program.

5 A. The Director may by rule establish a short-time  
6 compensation program consistent with this Section. No  
7 short-time compensation shall be payable except as authorized  
8 by rule.

9 B. As used in this Section:

10 "Affected unit" means a specified plant, department,  
11 shift, or other definable unit that includes 2 or more workers  
12 to which an approved short-time compensation plan applies.

13 "Health and retirement benefits" means employer-provided  
14 health benefits and retirement benefits under a defined benefit  
15 pension plan (as defined in Section 414(j) of the Internal  
16 Revenue Code) or contributions under a defined contribution  
17 plan (defined in Section 414(i) of the Internal Revenue Code),  
18 which are incidents of employment in addition to the cash  
19 remuneration earned.

20 "Short-time compensation" means the unemployment benefits  
21 payable to employees in an affected unit under an approved  
22 short-time compensation plan, as distinguished from the  
23 unemployment benefits otherwise payable under this Act.

24 "Short-time compensation plan" means a plan submitted by an  
25 employer, for approval by the Director, under which the

1 employer requests the payment of short-time compensation to  
2 workers in an affected unit of the employer to avert layoffs.

3 "Usual weekly hours of work" means the usual hours of work  
4 for full-time or part-time employees in the affected unit when  
5 that unit is operating on its regular basis, not to exceed 40  
6 hours and not including hours of overtime work.

7 "Unemployment insurance" means the unemployment benefits  
8 payable under this Act other than short-time compensation and  
9 includes any amounts payable pursuant to an agreement under any  
10 Federal law providing for compensation, assistance, or  
11 allowances with respect to unemployment.

12 C. An employer wishing to participate in the short-time  
13 compensation program shall submit a signed written short-time  
14 compensation plan to the Director for approval. The Director  
15 shall develop an application form to request approval of a  
16 short-time compensation plan and an approval process. The  
17 application shall include:

18 1. The employer's unemployment insurance account  
19 number, the affected unit covered by the plan, including  
20 the number of full-time or part-time workers in such unit,  
21 the percentage of workers in the affected unit covered by  
22 the plan, identification of each individual employee in the  
23 affected unit by name and social security number, and any  
24 other information required by the Director to identify plan  
25 participants.

26 2. A description of how workers in the affected unit



1 will be notified of the employer's participation in the  
2 short-time compensation plan if such application is  
3 approved, including how the employer will notify those  
4 workers in a collective bargaining unit as well as any  
5 workers in the affected unit who are not in a collective  
6 bargaining unit. If the employer will not provide advance  
7 notice to workers in the affected unit, the employer shall  
8 explain in a statement in the application why it is not  
9 feasible to provide such notice.

10 3. The employer's certification that it has the  
11 approval of the plan from all collective bargaining  
12 representatives of employees in the affected unit and has  
13 notified all employees in the affected unit who are not in  
14 a collective bargaining unit of the plan.

15 4. The employer's certification that it will not hire  
16 additional part-time or full-time employees for, or  
17 transfer employees to, the affected unit, while the program  
18 is in operation.

19 5. A requirement that the employer identify the usual  
20 weekly hours of work for employees in the affected unit and  
21 the specific percentage by which their hours will be  
22 reduced during all weeks covered by the plan. An  
23 application shall specify the percentage of reduction for  
24 which a short-time compensation application may be  
25 approved which shall be not less than 20% and not more than  
26 60%. If the plan includes any week for which the employer

1 regularly provides no work (due to a holiday or other plant  
2 closing), then such week shall be identified in the  
3 application.

4 6. Certification by the employer that, if the employer  
5 provides health and retirement benefits to any employee  
6 whose usual weekly hours of work are reduced under the  
7 program, such benefits will continue to be provided to the  
8 employee participating in the short-time compensation  
9 program under the same terms and conditions as though the  
10 usual weekly hours of work of such employee had not been  
11 reduced or to the same extent as other employees not  
12 participating in the short-time compensation program. For  
13 defined benefit retirement plans, the hours that are  
14 reduced under the short-time compensation plan shall be  
15 credited for purposes of participation, vesting, and  
16 accrual of benefits as though the usual weekly hours of  
17 work had not been reduced. The dollar amount of employer  
18 contributions to a defined contribution plan that are based  
19 on a percentage of compensation may be less due to the  
20 reduction in the employee's compensation. Notwithstanding  
21 any other provision to the contrary, a certification that a  
22 reduction in health and retirement benefits is scheduled to  
23 occur during the duration of the plan and will be  
24 applicable equally to employees who are not participating  
25 in the short-time compensation program and to those  
26 employees who are participating satisfies this paragraph.

1           7. Certification by the employer that the aggregate  
2           reduction in work hours is in lieu of layoffs (temporary or  
3           permanent layoffs, or both). The application shall include  
4           an estimate of the number of workers who would have been  
5           laid off in the absence of the short-time compensation  
6           plan.

7           8. Agreement by the employer to: furnish reports to the  
8           Director relating to the proper conduct of the plan; allow  
9           the Director or his or her authorized representatives  
10           access to all records necessary to approve or disapprove  
11           the plan application, and after approval of a plan, to  
12           monitor and evaluate the plan; and follow any other  
13           directives the Director deems necessary for the agency to  
14           implement the plan and which are consistent with the  
15           requirements for plan applications.

16           9. Certification by the employer that participation in  
17           the short-time compensation plan and its implementation is  
18           consistent with the employer's obligations under  
19           applicable Federal and Illinois laws.

20           10. The effective date and duration of the plan, which  
21           shall expire no later than the end of the 12th full  
22           calendar month after the effective date.

23           11. Any other provision added to the application by the  
24           Director that the United States Secretary of Labor  
25           determines to be appropriate for purposes of a short-time  
26           compensation program.

1       D. The Director shall approve or disapprove a short-time  
2 compensation plan in writing within 45 days of its receipt and  
3 promptly communicate the decision to the employer. A decision  
4 disapproving the plan shall clearly identify the reasons for  
5 the disapproval. The disapproval shall be final, but the  
6 employer shall be allowed to submit another short-time  
7 compensation plan for approval not earlier than 30 days from  
8 the date of the disapproval.

9       E. The short-time compensation plan shall be effective on  
10 the mutually agreed upon date by the employer and the Director,  
11 which shall be specified in the notice of approval to the  
12 employer. The plan shall expire on the date specified in the  
13 notice of approval, which shall be mutually agreed on by the  
14 employer and Director but no later than the end of the 12th  
15 full calendar month after its effective date. However, if a  
16 short-time compensation plan is revoked by the Director, the  
17 plan shall terminate on the date specified in the Director's  
18 written order of revocation. An employer may terminate a  
19 short-time compensation plan at any time upon written notice to  
20 the Director. Upon receipt of such notice from the employer,  
21 the Director shall promptly notify each member of the affected  
22 unit of the termination date. An employer may submit a new  
23 application to participate in another short-time compensation  
24 plan at any time after the expiration or termination date.

25       F. The Director may revoke approval of a short-time  
26 compensation plan for good cause at any time, including upon

1 the request of any of the affected unit's employees or their  
2 collective bargaining representative. The revocation order  
3 shall be in writing and shall specify the reasons for the  
4 revocation and the date the revocation is effective. The  
5 Director may periodically review the operation of each  
6 employer's short-time compensation plan to assure that no good  
7 cause exists for revocation of the approval of the plan. Good  
8 cause shall include, but not be limited to, failure to comply  
9 with the assurances given in the plan, termination of the  
10 approval of the plan by a collective bargaining representative  
11 of employees in the affected unit, unreasonable revision of  
12 productivity standards for the affected unit, conduct or  
13 occurrences tending to defeat the intent and effective  
14 operation of the short-time compensation plan, and violation of  
15 any criteria on which approval of the plan was based.

16 G. An employer may request a modification of an approved  
17 plan by filing a written request to the Director. The request  
18 shall identify the specific provisions proposed to be modified  
19 and provide an explanation of why the proposed modification is  
20 appropriate for the short-time compensation plan. The Director  
21 shall approve or disapprove the proposed modification in  
22 writing within 30 days of receipt and promptly communicate the  
23 decision to the employer. The Director, in his or her  
24 discretion, may approve a request for modification of the plan  
25 based on conditions that have changed since the plan was  
26 approved provided that the modification is consistent with and

1 supports the purposes for which the plan was initially  
2 approved. A modification may not extend the expiration date of  
3 the original plan, and the Director must promptly notify the  
4 employer whether the plan modification has been approved and,  
5 if approved, the effective date of modification. An employer is  
6 not required to request approval of plan modification from the  
7 Director if the change is not substantial, but the employer  
8 must report every change to plan to the Director promptly and  
9 in writing. The Director may terminate an employer's plan if  
10 the employer fails to meet this reporting requirement. If the  
11 Director determines that the reported change is substantial,  
12 the Director shall require the employer to request a  
13 modification to the plan.

14 H. An individual is eligible to receive short-time  
15 compensation with respect to any week only if the individual is  
16 eligible for unemployment insurance pursuant to subsection E of  
17 Section 500, not otherwise disqualified for unemployment  
18 insurance, and:

19 1. During the week, the individual is employed as a  
20 member of an affected unit under an approved short-time  
21 compensation plan, which was approved prior to that week,  
22 and the plan is in effect with respect to the week for  
23 which short-time compensation is claimed.

24 2. Notwithstanding any other provision of this Act  
25 relating to availability for work and actively seeking  
26 work, the individual is available for the individual's

1 usual hours of work with the short-time compensation  
2 employer, which may include, for purposes of this Section,  
3 participating in training to enhance job skills that is  
4 approved by the Director, including but not limited to as  
5 employer-sponsored training or training funded under the  
6 Workforce Investment Act of 1998.

7 3. Notwithstanding any other provision of law, an  
8 individual covered by a short-time compensation plan is  
9 deemed unemployed in any week during the duration of such  
10 plan if the individual's remuneration as an employee in an  
11 affected unit is reduced based on a reduction of the  
12 individual's usual weekly hours of work under an approved  
13 short-time compensation plan.

14 I. The short-time compensation weekly benefit amount shall  
15 be the product of the percentage of reduction in the  
16 individual's usual weekly hours of work multiplied by the sum  
17 of the regular weekly benefit amount for a week of total  
18 unemployment plus any applicable dependent allowance pursuant  
19 to subsection C of Section 401.

20 1. An individual may be eligible for short-time  
21 compensation or unemployment insurance, as appropriate,  
22 except that no individual shall be eligible for combined  
23 benefits (excluding any payments attributable to a  
24 dependent allowance pursuant to subsection C of Section  
25 401) in any benefit year in an amount more than the maximum  
26 benefit amount, nor shall an individual be paid short-time

1       compensation benefits for more than 52 weeks under a  
2       short-time compensation plan.

3           2. The short-time compensation paid to an individual  
4       (excluding any payments attributable to a dependent  
5       allowance pursuant to subsection C of Section 401) shall be  
6       deducted from the maximum benefit amount established for  
7       that individual's benefit year.

8           3. Provisions applicable to unemployment insurance  
9       claimants shall apply to short-time compensation claimants  
10       to the extent that they are not inconsistent with  
11       short-time compensation provisions. An individual who  
12       files an initial claim for short-time compensation  
13       benefits shall receive a monetary determination.

14           4. The following provisions apply to individuals who  
15       work for both a short-time compensation employer and  
16       another employer during weeks covered by the approved  
17       short-time compensation plan:

18           i. If combined hours of work in a week for both  
19       employers do not result in a reduction of at least 20%  
20       of the usual weekly hours of work with the short-time  
21       compensation employer, the individual shall not be  
22       entitled to benefits under this Section.

23           ii. If combined hours of work for both employers  
24       results in a reduction equal to or greater than 20% of  
25       the usual weekly hours of work for the short-time  
26       compensation employer, the short-time compensation



1           benefit amount payable to the individual is reduced for  
2           that week and is determined by multiplying the  
3           percentage by which the combined hours of work have  
4           been reduced by the sum of the weekly benefit amount  
5           for a week of total unemployment plus any applicable  
6           dependent allowance pursuant to subsection C of  
7           Section 401. A week for which benefits are paid under  
8           this subparagraph shall be reported as a week of  
9           short-time compensation.

10           iii. If an individual worked the reduced  
11           percentage of the usual weekly hours of work for the  
12           short-time compensation employer and is available for  
13           all his or her usual hours of work with the short-time  
14           compensation employer, and the individual did not work  
15           any hours for the other employer either because of the  
16           lack of work with that employer or because the  
17           individual is excused from work with the other  
18           employer, the individual shall be eligible for  
19           short-time compensation for that week. The benefit  
20           amount for such week shall be calculated as provided in  
21           the introductory clause of this subsection I.

22           iv. An individual who is not provided any work  
23           during a week by the short-time compensation employer,  
24           or any other employer, and who is otherwise eligible  
25           for unemployment insurance shall be eligible for the  
26           amount of regular unemployment insurance determined

1           without regard to this Section.

2           v. An individual who is not provided any work by  
3           the short-time compensation employer during a week,  
4           but who works for another employer and is otherwise  
5           eligible may be paid unemployment insurance for that  
6           week subject to the disqualifying income and other  
7           provisions applicable to claims for regular  
8           unemployment insurance.

9           J. Short-time compensation shall be charged to employers in  
10          the same manner as unemployment insurance is charged under  
11          Illinois law. Employers liable for payments in lieu of  
12          contributions shall have short-time compensation attributed to  
13          service in their employ in the same manner as unemployment  
14          insurance is attributed. Notwithstanding any other provision  
15          to the contrary, to the extent that short-term compensation  
16          payments under this Section are reimbursed by the federal  
17          government, no benefit charges or payments in lieu of  
18          contributions shall be accrued by a participating employer.

19          K. A short-time compensation plan shall not be approved for  
20          an employer that is delinquent in the filing of any reports  
21          required or the payment of contributions, payments in lieu of  
22          contributions, interest, or penalties due under this Act  
23          through the date of the employer's application.

24          L. Overpayments of other benefits under this Act may be  
25          recovered from an individual receiving short-time compensation  
26          under this Act in the manner provided under Sections 900 and

1 901. Overpayments under the short-time compensation plan may be  
2 recovered from an individual receiving other benefits under  
3 this Act in the manner provided under Sections 900 and 901.

4 M. An individual who has received all of the short-time  
5 compensation or combined unemployment insurance and short-time  
6 compensation available in a benefit year shall be considered an  
7 exhaustee for purposes of extended benefits, as provided under  
8 the provisions of Section 409, and, if otherwise eligible under  
9 those provisions, shall be eligible to receive extended  
10 benefits.

11 (820 ILCS 405/702) (from Ch. 48, par. 452)

12 Sec. 702. Determinations. The claims adjudicator shall for  
13 each week with respect to which the claimant claims benefits or  
14 waiting period credit, make a "determination" which shall state  
15 whether or not the claimant is eligible for such benefits or  
16 waiting period credit and the sum to be paid the claimant with  
17 respect to such week. The claims adjudicator shall promptly  
18 notify the claimant and such employing unit as shall, within  
19 the time and in the manner prescribed by the Director, have  
20 filed a sufficient allegation that the claimant is ineligible  
21 to receive benefits or waiting period credit for said week, of  
22 his "determination" and the reasons therefor. The Director may,  
23 by rule adopted with the advice and aid of the Employment  
24 Security Advisory Board, require that an employing unit with 25  
25 ~~50~~ or more individuals in its employ during a ~~the~~ ~~prior~~

1 calendar year, or an entity representing 5 or more employing  
2 units during a ~~the prior~~ calendar year, file an allegation of  
3 ineligibility electronically in a manner prescribed by the  
4 Director for the one year period commencing on July 1 of the  
5 immediately succeeding calendar year and ending on June 30 of  
6 the second succeeding calendar year. In making his  
7 "determination," the claims adjudicator shall give  
8 consideration to the information, if any, contained in the  
9 employing unit's allegation, whether or not the allegation is  
10 sufficient. The claims adjudicator shall deem an employing  
11 unit's allegation sufficient only if it contains a reason or  
12 reasons therefor (other than general conclusions of law, and  
13 statements such as "not actively seeking work" or "not  
14 available for work" shall be deemed, for this purpose, to be  
15 conclusions of law). If the claims adjudicator deems an  
16 allegation insufficient, he shall make a decision accordingly,  
17 and shall notify the employing unit of such decision and the  
18 reasons therefor. Such decision may be appealed by the  
19 employing unit to a Referee within the time limits prescribed  
20 by Section 800 for appeal from a "determination". Any such  
21 appeal, and any appeal from the Referee's decision thereon,  
22 shall be governed by the applicable provisions of Sections 801,  
23 803, 804 and 805.

24 (Source: P.A. 97-621, eff. 11-18-11.)

1           Sec. 1402. Penalties.

2           A. If any employer fails, within the time prescribed in  
3 this Act as amended and in effect on October 5, 1980, and the  
4 regulations of the Director, to file a report of wages paid to  
5 each of his workers, or to file a sufficient report of such  
6 wages after having been notified by the Director to do so, for  
7 any period which begins prior to January 1, 1982, he shall pay  
8 to the Department as a penalty a sum determined in accordance  
9 with the provisions of this Act as amended and in effect on  
10 October 5, 1980.

11           B. Except as otherwise provided in this Section, any  
12 employer who fails to file a report of wages paid to each of  
13 his workers for any period which begins on or after January 1,  
14 1982, within the time prescribed by the provisions of this Act  
15 and the regulations of the Director, or, if the Director  
16 pursuant to such regulations extends the time for filing the  
17 report, fails to file it within the extended time, shall, in  
18 addition to any sum otherwise payable by him under the  
19 provisions of this Act, pay to the Department as a penalty a  
20 sum equal to the lesser of (1) \$5 for each \$10,000 or fraction  
21 thereof of the total wages for insured work paid by him during  
22 the period or (2) \$2,500, for each month or part thereof of  
23 such failure to file the report. With respect to an employer  
24 who has elected to file reports of wages on an annual basis  
25 pursuant to Section 1400.2, in assessing penalties for the  
26 failure to submit all reports by the due date established

1 pursuant to that Section, the 30-day period immediately  
2 following the due date shall be considered as one month.

3 If the Director deems an employer's report of wages paid to  
4 each of his workers for any period which begins on or after  
5 January 1, 1982, insufficient, he shall notify the employer to  
6 file a sufficient report. If the employer fails to file such  
7 sufficient report within 30 days after the mailing of the  
8 notice to him, he shall, in addition to any sum otherwise  
9 payable by him under the provisions of this Act, pay to the  
10 Department as a penalty a sum determined in accordance with the  
11 provisions of the first paragraph of this subsection, for each  
12 month or part thereof of such failure to file such sufficient  
13 report after the date of the notice.

14 For wages paid in calendar years prior to 1988, the penalty  
15 or penalties which accrue under the two foregoing paragraphs  
16 with respect to a report for any period shall not be less than  
17 \$100, and shall not exceed the lesser of (1) \$10 for each  
18 \$10,000 or fraction thereof of the total wages for insured work  
19 paid during the period or (2) \$5,000. For wages paid in  
20 calendar years after 1987, the penalty or penalties which  
21 accrue under the 2 foregoing paragraphs with respect to a  
22 report for any period shall not be less than \$50, and shall not  
23 exceed the lesser of (1) \$10 for each \$10,000 or fraction of  
24 the total wages for insured work paid during the period or (2)  
25 \$5,000. With respect to an employer who has elected to file  
26 reports of wages on an annual basis pursuant to Section 1400.2,

1 for purposes of calculating the minimum penalty prescribed by  
2 this Section for failure to file the reports on a timely basis,  
3 a calendar year shall constitute a single period. For reports  
4 of wages paid after 1986, the Director shall not, however,  
5 impose a penalty pursuant to either of the two foregoing  
6 paragraphs on any employer who can prove within 30 working days  
7 after the mailing of a notice of his failure to file such a  
8 report, that (1) the failure to file the report is his first  
9 such failure during the previous 20 consecutive calendar  
10 quarters, and (2) the amount of the total contributions due for  
11 the calendar quarter of such report (or, in the case of an  
12 employer who is required to file the reports on a monthly  
13 basis, the amount of the total contributions due for the  
14 calendar quarter that includes the month of such report) is  
15 less than \$500.

16 For any month which begins on or after January 1, 2013, a  
17 report of the wages paid to each of an employer's workers shall  
18 be due on or before the last day of the month next following  
19 the calendar month in which the wages were paid if the employer  
20 is required to report such wages electronically pursuant to the  
21 regulations of the Director; otherwise a report of the wages  
22 paid to each of the employer's workers shall be due on or  
23 before the last day of the month next following the calendar  
24 quarter in which the wages were paid.

25 Any employer who willfully ~~wilfully~~ fails to pay any  
26 contribution or part thereof, based upon wages paid prior to

1 1987, when required by the provisions of this Act and the  
2 regulations of the Director, with intent to defraud the  
3 Director, shall in addition to such contribution or part  
4 thereof pay to the Department a penalty equal to 50 percent of  
5 the amount of such contribution or part thereof, as the case  
6 may be, provided that the penalty shall not be less than \$200.

7 Any employer who willfully fails to pay any contribution or  
8 part thereof, based upon wages paid in 1987 and in each  
9 calendar year thereafter, when required by the provisions of  
10 this Act and the regulations of the Director, with intent to  
11 defraud the Director, shall in addition to such contribution or  
12 part thereof pay to the Department a penalty equal to 60% of  
13 the amount of such contribution or part thereof, as the case  
14 may be, provided that the penalty shall not be less than \$400.

15 However, all or part of any penalty may be waived by the  
16 Director for good cause shown.

17 C. With regard to an employer required to report monthly  
18 pursuant to this Section, in addition to each employee's name,  
19 social security number, and wages for insured work paid during  
20 the period, the Director may, by rule, require a report to  
21 provide the following information concerning each employee:  
22 the employee's occupation, hours worked during the period,  
23 hourly wage, if applicable, and work location if the employer  
24 has more than one physical location. Notwithstanding any other  
25 provision of any other law to the contrary, information  
26 obtained pursuant to this subsection shall not be disclosed to



1 any other public official or agency of this State or any other  
2 state to the extent it relates to a specifically identified  
3 individual or entity or to the extent that the identity of a  
4 specific individual or entity may be discerned from such  
5 information. The additional data elements required to be  
6 reported pursuant to the rule authorized by this subsection may  
7 be reported in the same electronic format as in the system  
8 maintained by the employer or employer's agent and need not be  
9 reformatted.

10 (Source: P.A. 97-689, eff. 6-14-12; 97-791, eff. 1-1-13;  
11 98-463, eff. 8-16-13.)

12 (820 ILCS 405/1402.1 new)

13 Sec. 1402.1. Processing fee.

14 A. The Director may, by rule, establish a processing fee of  
15 \$50 with regard to a report of contributions due that is not  
16 required to be submitted electronically if the employer fails  
17 to submit the report on the form designated by the Director or  
18 otherwise provide all of the information required by the form  
19 designated by the Director. With respect to the first instance  
20 of such a failure after the effective date of the rule, the  
21 Director shall issue the employer a written warning instead of  
22 a processing fee, and no such processing fee shall be assessed  
23 unless the Director has issued the employer a written warning  
24 for a prior failure.

25 B. The Director may, by rule, establish a processing fee of

1 \$50 with regard to any payment of contributions, payment in  
2 lieu of contributions, interest, or penalty that is not made  
3 through electronic funds transfer if the employer fails to  
4 enclose the payment coupon provided by the Director with its  
5 payment or otherwise provide all of the information the coupon  
6 would provide, regardless of the amount due. With respect to  
7 the first instance of such a failure after the effective date  
8 of the rule, the Director shall issue the employer a written  
9 warning instead of a processing fee, and no such processing fee  
10 shall be assessed unless the Director has issued the employer a  
11 written warning for a prior failure.

12 (820 ILCS 405/2101) (from Ch. 48, par. 661)

13 Sec. 2101. Special administrative account. Except as  
14 provided in Section 2100, all interest and penalties collected  
15 pursuant to this Act shall be deposited in the special  
16 administrative account. The amount in this account in excess of  
17 \$100,000 on the close of business of the last day of each  
18 calendar quarter shall be immediately transferred to this  
19 State's account in the unemployment trust fund. However,  
20 subject to Section 2101.1, such funds shall not be transferred  
21 where it is determined by the Director that it is necessary to  
22 accumulate funds in the account in order to have sufficient  
23 funds to pay interest that may become due under the terms of  
24 Section 1202 (b) of the Federal Social Security Act, as  
25 amended, upon advances made to the Illinois Unemployment

1 Insurance Trust Fund under Title XII of the Federal Social  
2 Security Act or where it is determined by the Director that it  
3 is necessary to accumulate funds in the special administrative  
4 account in order to have sufficient funds to expend for any  
5 other purpose authorized by this Section. The balance of funds  
6 in the special administrative account that are in excess of  
7 \$100,000 on the first day of each calendar quarter and not  
8 transferred to this State's account in the unemployment trust  
9 fund, minus the amount reasonably anticipated to be needed to  
10 make payments from the special administrative account pursuant  
11 to subsections C through I, shall be certified by the Director  
12 and transferred by the State Comptroller to the Title III  
13 Social Security and Employment Fund in the State Treasury  
14 within 30 days of the first day of the calendar quarter. The  
15 Director may certify and the State Comptroller shall transfer  
16 such funds to the Title III Social Security and Employment Fund  
17 on a more frequent basis. The moneys available in the special  
18 administrative account shall be expended upon the direction of  
19 the Director whenever it appears to him that such expenditure  
20 is necessary for:

21 A. 1. The proper administration of this Act and no Federal  
22 funds are available for the specific purpose for which such  
23 expenditure is to be made, provided the moneys are not  
24 substituted for appropriations from Federal funds, which in the  
25 absence of such moneys would be available and provided the  
26 monies are appropriated by the General Assembly.

1           2. The proper administration of this Act for which purpose  
2 appropriations from Federal funds have been requested but not  
3 yet received, provided the special administrative account will  
4 be reimbursed upon receipt of the requested Federal  
5 appropriation.

6           B. To the extent possible, the repayment to the fund  
7 established for financing the cost of administration of this  
8 Act of moneys found by the Secretary of Labor of the United  
9 States of America, or other appropriate Federal agency, to have  
10 been lost or expended for purposes other than, or in amounts in  
11 excess of, those found necessary by the Secretary of Labor, or  
12 other appropriate Federal agency, for the administration of  
13 this Act.

14           C. The payment of refunds or adjustments of interest or  
15 penalties, paid pursuant to Sections 901 or 2201.

16           D. The payment of interest on refunds of erroneously paid  
17 contributions, penalties and interest pursuant to Section  
18 2201.1.

19           E. The payment or transfer of interest or penalties to any  
20 Federal or State agency, pursuant to reciprocal arrangements  
21 entered into by the Director under the provisions of Section  
22 2700E.

23           F. The payment of any costs incurred, pursuant to Section  
24 1700.1.

25           G. Beginning January 1, 1989, for the payment for the legal  
26 services authorized by subsection B of Section 802, up to

1 \$1,000,000 per year for the representation of the individual  
2 claimants and up to \$1,000,000 per year for the representation  
3 of "small employers".

4 H. The payment of any fees for collecting past due  
5 contributions, payments in lieu of contributions, penalties,  
6 and interest shall be paid (without an appropriation) from  
7 interest and penalty monies received from collection agents  
8 that have contracted with the Department under Section 2206 to  
9 collect such amounts, provided however, that the amount of such  
10 payment shall not exceed the amount of past due interest and  
11 penalty collected.

12 I. The payment of interest that may become due under the  
13 terms of Section 1202 (b) of the Federal Social Security Act,  
14 as amended, for advances made to the Illinois Unemployment  
15 Insurance Trust Fund.

16 The Director shall annually on or before the first day of  
17 March report in writing to the Employment Security Advisory  
18 Board concerning the expenditures made from the special  
19 administrative account and the purposes for which funds are  
20 being accumulated.

21 If Federal legislation is enacted which will permit the use  
22 by the Director of some part of the contributions collected or  
23 to be collected under this Act, for the financing of  
24 expenditures incurred in the proper administration of this Act,  
25 then, upon the availability of such contributions for such  
26 purpose, the provisions of this Section shall be inoperative

1 and interest and penalties collected pursuant to this Act shall  
2 be deposited in and be deemed a part of the clearing account.  
3 In the event of the enactment of the foregoing Federal  
4 legislation, and within 90 days after the date upon which  
5 contributions become available for expenditure for costs of  
6 administration, the total amount in the special administrative  
7 account shall be transferred to the clearing account, and after  
8 clearance thereof shall be deposited with the Secretary of the  
9 Treasury of the United States of America to the credit of the  
10 account of this State in the unemployment trust fund,  
11 established and maintained pursuant to the Federal Social  
12 Security Act, as amended.

13 (Source: P.A. 94-1083, eff. 1-19-07.)

14 (820 ILCS 405/2201) (from Ch. 48, par. 681)

15 Sec. 2201. Refund or adjustment of contributions. Not  
16 later than 3 years after the date upon which the Director first  
17 notifies ~~any contributions, interest or penalties thereon were~~  
18 ~~paid,~~ an employing unit that it ~~which~~ has paid ~~such~~  
19 contributions, interest or penalties thereon erroneously, the  
20 employing unit may file a claim with the Director for an  
21 adjustment thereof in connection with subsequent contribution  
22 payments, or for a refund thereof where such adjustment cannot  
23 be made; provided, however, that no refund or adjustment shall  
24 be made of any contribution, the amount of which has been  
25 determined and assessed by the Director, if such contribution

1 was paid after the determination and assessment of the Director  
2 became final, and provided, further, that any such adjustment  
3 or refund, involving contributions with respect to wages on the  
4 basis of which benefits have been paid, shall be reduced by the  
5 amount of benefits so paid. Upon receipt of a claim the  
6 Director shall make his determination, either allowing such  
7 claim in whole or in part, or ordering that it be denied, and  
8 serve notice upon the claimant of such determination. Such  
9 determination of the Director shall be final at the expiration  
10 of 20 days from the date of service of such notice unless the  
11 claimant shall have filed with the Director a written protest  
12 and a petition for hearing, specifying his objections thereto.  
13 Upon receipt of such petition within the 20 days allowed, the  
14 Director shall fix the time and place for a hearing and shall  
15 notify the claimant thereof. At any hearing held as herein  
16 provided, the determination of the Director shall be prima  
17 facie correct and the burden shall be upon the protesting  
18 employing unit to prove that it is incorrect. All of the  
19 provisions of this Act applicable to hearings conducted  
20 pursuant to Section 2200 shall be applicable to hearings  
21 conducted pursuant to this Section. Upon the conclusion of such  
22 hearing, a decision shall be made by the Director and notice  
23 thereof given to the claimant. If the Director shall decide  
24 that the claim be allowed in whole or in part, or if such  
25 allowance be ordered by the Court pursuant to Section 2205 and  
26 the judgment of said Court has become final, the Director

1 shall, if practicable, make adjustment without interest in  
2 connection with subsequent contribution payments by the  
3 claimant, and if adjustments thereof cannot practicably be made  
4 in connection with such subsequent contribution payments, then  
5 the Director shall refund to the claimant the amount so  
6 allowed, without interest except as otherwise provided in  
7 Section 2201.1 from moneys in the benefit account established  
8 by this Act. Nothing herein contained shall prohibit the  
9 Director from making adjustment or refund upon his own  
10 initiative, within the time allowed for filing claim therefor,  
11 provided that the Director shall make no refund or adjustment  
12 of any contribution, the amount of which he has previously  
13 determined and assessed, if such contribution was paid after  
14 the determination and assessment became final.

15 If this State should not be certified for any year by the  
16 Secretary of Labor of the United States of America, or other  
17 appropriate Federal agency, under Section 3304 of the Federal  
18 Internal Revenue Code of 1954, the Director shall refund  
19 without interest to any instrumentality of the United States  
20 subject to this Act by virtue of permission granted in an Act  
21 of Congress, the amount of contributions paid by such  
22 instrumentality with respect to such year.

23 The Director may by regulation provide that, if there is a  
24 total credit balance of less than \$2 in an employer's account  
25 with respect to contributions, interest, and penalties, the  
26 amount may be disregarded by the Director; once disregarded,



1 the amount shall not be considered a credit balance in the  
2 account and shall not be subject to either an adjustment or a  
3 refund.

4 (Source: P.A. 90-554, eff. 12-12-97.)

5 (820 ILCS 405/2201.1) (from Ch. 48, par. 681.1)

6 Sec. 2201.1. Interest on Overpaid Contributions, Penalties  
7 and Interest. The Director shall semi-annually ~~quarterly~~  
8 furnish each employer with a statement of credit balances in  
9 the employer's account where the balances with respect to all  
10 contributions, interest and penalties combined equal or exceed  
11 \$2. Under regulations prescribed by the Director and subject to  
12 the limitations of Section 2201, the employer may file a  
13 request for an adjustment or refund of the amount erroneously  
14 paid. Interest shall be paid on refunds of erroneously paid  
15 contributions, penalties and interest imposed by this Act,  
16 except that if any refund is mailed by the Director within 90  
17 days after the date of the refund claim, no interest shall be  
18 due or paid. The interest shall begin to accrue as of the date  
19 of the refund claim and shall be paid at the rate of 1.5% per  
20 month computed at the rate of 12/365 of 1.5% for each day or  
21 fraction thereof. Interest paid pursuant to this Section shall  
22 be paid from monies in the special administrative account  
23 established by Sections 2100 and 2101. This Section shall apply  
24 only to refunds of contributions, penalties and interest which  
25 were paid as the result of wages paid after January 1, 1988.

1 (Source: P.A. 90-554, eff. 12-12-97.)

2 (820 ILCS 405/2401) (from Ch. 48, par. 721)

3 (Text of Section after amendment by P.A. 98-107)

4 Sec. 2401. Recording and release of lien. A. The lien  
5 created by Section 2400 shall be invalid only as to any  
6 innocent purchaser for value of stock in trade of any employer  
7 in the usual course of such employer's business, and shall be  
8 invalid as to any innocent purchaser for value of any of the  
9 other assets to which such lien has attached, unless notice  
10 thereof has been filed by the Director in the office of the  
11 recorder of the county within which the property subject to the  
12 lien is situated. The Director may, in his discretion, for good  
13 cause shown ~~and upon the reimbursement of any recording fees~~  
14 ~~paid by the Director with respect to the lien,~~ issue a  
15 certificate of withdrawal of notice of lien filed against any  
16 employer, which certificate shall be recorded in the same  
17 manner as herein provided for the recording of notice of liens.  
18 Such withdrawal of notice of lien shall invalidate such lien as  
19 against any person acquiring any of such employer's property or  
20 any interest therein, subsequent to the recordation of the  
21 withdrawal of notice of lien, but shall not otherwise affect  
22 the validity of such lien, nor shall it prevent the Director  
23 from re-recording notice of such lien. In the event notice of  
24 such lien is re-recorded, such notice shall be effective as  
25 against third persons only as of the date of such

1 re-recording.

2 B. The recorder of each county shall procure at the expense  
3 of the county a file labeled "Unemployment Compensation  
4 Contribution Lien Notice" and an index book labeled  
5 "Unemployment Compensation Contribution Lien Index." When a  
6 notice of any such lien is presented to him for filing, he  
7 shall file it in numerical order in the file and shall enter it  
8 alphabetically in the index. The entry shall show the name and  
9 last known business address of the employer named in the  
10 notice, the serial number of the notice, the date and hour of  
11 filing, and the amount of contribution, interest and penalty  
12 thereon due and unpaid. When a certificate of complete or  
13 partial release of such lien issued by the Director is  
14 presented for filing in the office of the recorder where a  
15 notice of lien was filed, the recorder shall permanently attach  
16 the certificate of release to the notice of lien and shall  
17 enter the certificate of release and the date in the  
18 Unemployment Compensation Contribution Lien Index on the line  
19 where the notice of lien is entered. In case title to land to  
20 be affected by the Notice of Lien is registered under the  
21 provisions of "An Act Concerning Land Titles", approved May 1,  
22 1897, as amended, such notice shall be filed in the office of  
23 the Registrar of Titles of the county within which the property  
24 subject to the lien is situated and shall be entered upon the  
25 register of titles as a memorial or charge upon each folium of  
26 the register of title affected by such notice, and the Director

1 shall not have a preference over the rights of any bona fide  
2 purchaser, mortgagee, judgment creditor or other lien holder  
3 arising prior to the registration of such notice.

4 C. The Director shall have the power to issue a certificate  
5 of partial release of any part of the property subject to the  
6 ~~lien, upon the reimbursement of any recording fees paid by the~~  
7 ~~Director with respect to the lien,~~ if he shall find that the  
8 fair market value of that part of such property remaining  
9 subject to the lien is at least equal to the amount of all  
10 prior liens upon such property plus double the amount of the  
11 liability for contributions, interest and penalties thereon  
12 remaining unsatisfied.

13 D. Where the amount of or the liability for the payment of  
14 any contribution, interest or penalty is contested by any  
15 employing unit against whose property a lien has attached, and  
16 the determination of the Director with reference to such  
17 contribution has not become final, the Director may issue a  
18 certificate of release of lien upon the ~~reimbursement of any~~  
19 ~~recording fees paid by the Director with respect to the lien~~  
20 ~~and the~~ furnishing of bond by such employing unit in 125% the  
21 amount of the sum of such contribution, interest and penalty,  
22 for which lien is claimed, with good and sufficient surety to  
23 be approved by the Director conditioned upon the prompt payment  
24 of such contribution, together with interest and penalty  
25 thereon, by such employing unit to the Director immediately  
26 upon the decision of the Director in respect to the liability

1 for such contribution, interest and penalty becoming final.

2 E. When a lien obtained pursuant to this Act has been  
3 satisfied ~~and upon the reimbursement of any recording fees paid~~  
4 ~~by the Director with respect to the lien~~, the Department shall  
5 issue a release to the person, or his agent, against whom the  
6 lien was obtained and such release shall contain in legible  
7 letters a statement as follows:

8 FOR THE PROTECTION OF THE OWNER, THIS RELEASE SHALL  
9 BE FILED WITH THE RECORDER OR THE REGISTRAR  
10 OF TITLES, IN WHOSE OFFICE, THE LIEN WAS FILED.

11 F. The Director may, by rule, require, as a condition of  
12 withdrawing, releasing, or partially releasing a lien recorded  
13 pursuant to this Section, that the employer reimburse the  
14 Department for any recording fees paid with respect to the  
15 lien.

16 (Source: P.A. 98-107, eff. 7-1-14.)

17 (820 ILCS 405/2403) (from Ch. 48, par. 723)

18 Sec. 2403. Enforcement of lien. In addition and as an  
19 alternative to any other remedy provided by law, the Director  
20 may foreclose the lien created by Section 2400 by petition in  
21 the name of the People of the State of Illinois to the Circuit  
22 Court of the county wherein the property subject to the lien is  
23 situated, in the same manner as provided by law for the  
24 foreclosure of other liens, provided that no hearing or  
25 proceeding provided by this Act for the review of the liability

1 for the payment of the sums secured by such lien is pending and  
2 the time for taking thereof has expired. The process, practice  
3 and procedure for such foreclosure shall be the same as  
4 provided in the Civil Practice Law, as amended, except that in  
5 all such cases, it shall not be necessary that the petition  
6 describe the property to which the lien has attached. The  
7 employer against whom such petition has been filed shall file  
8 in the proceedings a full and complete schedule, under oath, of  
9 all property and rights thereto which he owned at the time the  
10 contributions, upon which the lien sought to be foreclosed is  
11 based, became due, or which he subsequently acquired, and if  
12 such employer fails to do so after having been so ordered by  
13 the court, he may be punished as in other cases of contempt of  
14 court.

15 The court in any proceeding commenced pursuant to the  
16 provisions of this Act may appoint a receiver with power to  
17 administer or liquidate the assets subject to the lien,  
18 pursuant to the order of the court.

19 Upon sale of the above stated property, the proceeds shall  
20 be applied to the payment of the costs incurred in the  
21 proceedings, and the satisfaction of such liens as have  
22 attached to the property in the order of their priority; the  
23 balance, if any, shall be paid to such parties as the court  
24 shall find to be entitled thereto. The Director is hereby  
25 empowered to bid at any sale conducted pursuant to the  
26 provisions of this Act.

1           The Director may also enforce the lien created by this Act  
2 to the same extent and in the same manner as is provided by the  
3 Retailers' Occupation Tax Act, as amended, for the enforcement  
4 of the lien created by that Act, except that, notwithstanding  
5 any provision of that Act to the contrary, the Director may  
6 also enforce the lien created by this Act by using designated  
7 agents to serve and enforce bank levies. When a bank is served  
8 with a levy by the Director on the account of an employer, the  
9 bank may assert its right to "setoff" its loan to the employer  
10 only if the bank has declared the employer's loan to be in  
11 default prior to the service of the Director's levy and the  
12 bank has seized the funds from the employer's account and made  
13 them unavailable to the employer prior to the date of such  
14 service.

15           The Director's rights to redemption from a judicial sale or  
16 a sale for the enforcement of a judgment, or a judgment  
17 satisfying indebtedness secured by a mortgage on, any real  
18 estate which is subject to a lien created by this Act, which is  
19 inferior to the lien enforced or foreclosed by such sale, or  
20 the lien securing the indebtedness satisfied, as the case may  
21 be, shall be the same as those of the Department of Revenue  
22 with reference to the lien created by the Retailers' Occupation  
23 Tax Act, and the procedure provided by law for the termination  
24 of the rights of redemption by the Department of Revenue shall  
25 be applicable to the termination of the rights of redemption of  
26 the Director. The statutory notice required to be served upon

1 and endorsed by the Director of Revenue by the Retailers'  
2 Occupation Tax Act shall be served upon and endorsed by the  
3 Director.

4 (Source: P.A. 88-655, eff. 9-16-94.)

5 (820 ILCS 405/1704.1 rep.)

6 Section 25. The Unemployment Insurance Act is amended by  
7 repealing Section 1704.1.

8 Section 99. Effective date. This Act takes effect July 1,  
9 2014, except that the changes to Sections 2201 and 2201.1 of  
10 the Unemployment Insurance Act take effect January 1, 2015."