

SENATE BILL NO. 121

BY SENATOR RISER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 23:1533 and 1552(E), relative to unemployment compensation
3 experience rating records; to provide for an exception for unemployment caused by
4 acts or omissions of third parties; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 23:1533 and 1552(E) are hereby amended and reenacted to read as
7 follows:

8 §1533. Experience rating records; administrator's duty to prepare

9 ~~(1) A.~~ The administrator shall prepare and maintain an experience rating
10 record for each employer, and shall credit such record with all the contributions paid
11 by him with respect to wages paid for the calendar quarter beginning October 1,
12 1941, and for each calendar quarter thereafter. Nothing in this Chapter shall be
13 construed to grant any employer or any individual performing services for him prior
14 claims or rights to amounts paid by the employer into the fund. The administrator
15 shall terminate the experience rating record of an employer who has ceased to be
16 subject to this Chapter, or may do so provided the employer has had no employment
17 in this state for a period of three consecutive calendar years. Benefits accruing and
18 paid on and after October 1, 1941, to an individual in accordance with the provisions
19 of this Chapter shall be charged against the experience rating records of his
20 base-period employers **except subject to the following limitations:**

21 (1) ~~that o~~ Only those benefits paid to an individual in accordance with the
22 provisions of R.S. 23:1611 through R.S. 23:1616 which are not reimbursed from
23 federal funds shall be charged against the experience rating records of his
24 base-period employers.

25 (2) ~~That b~~ Benefits paid to an individual pursuant to R.S. 23:1635 shall not
26 be charged against the experience rating records of a claimant's base-period
27 employers if it is finally determined that such claimant was not entitled to such

1 benefits. and

2 (3) ~~That b~~Benefits paid to an individual who continues to remain in the
3 employ of a base-period employer without a reduction in the number of hours
4 worked or wages paid shall not be charged against the experience rating records of
5 such employer.

6 **(4)(a) Benefits shall not be charged against the experience rating records**
7 **of a claimant's base period employer if both of the following conditions are**
8 **met:(i) Benefits are paid in a situation in which the unemployment is caused**
9 **solely by an act or omission of any third party or parties, or solely by such act**
10 **or omission in combination with an act of God or an act of war. The**
11 **determination of the responsibility of any third party or parties shall be as**
12 **determined by the Oil Pollution Act, 33 U.S.C. 2701, et seq.**

13 **(ii) Reimbursement for such benefits shall have been paid by the**
14 **responsible third party or parties into the Unemployment Trust Fund.**

15 **(b) The amount owed by any responsible third party or parties shall**
16 **equal the amount of regular and extended benefits paid to individuals as a result**
17 **of the act or omission attributed to the responsible party or parties.**

18 **(c) At the end of each calendar quarter, or at the end of any other period**
19 **as the administrator may prescribe by regulation, the administrator shall**
20 **charge the responsible party or parties accordingly.**

21 **(d) Paragraph (A)(4) of this Section is remedial and shall be retroactive**
22 **to January 1, 2010.**

23 **B.** The amount so chargeable against each base-period employer's experience
24 rating record shall bear the same ratio to the total benefits paid to an individual as the
25 base-period wages paid to the individual by such employer bear to the total amount
26 of base-period wages paid to the individual by all his base-period employers;
27 provided, however, that all such charges may be computed to the nearest multiple of
28 one dollar.

29 ~~(2)~~ **C.** If the total of the benefits which were chargeable to an employer's
30 experience-rating record, and were paid on or before July 31, immediately

1 succeeding the 1975 computation date as defined in R.S. 23:1542(1), with respect
 2 to weeks of unemployment beginning prior to said computation date exceeds the
 3 total of his contributions paid on or before July 31, immediately succeeding the ~~said~~
 4 1975 computation date with respect to wages paid by him on or prior to ~~said~~ **the**
 5 computation date, such excess benefit charges shall be cancelled from his
 6 experience-rating record for all of the purposes of R.S. 23:1536 with respect to the
 7 1975 computation date and all subsequent computation dates.

8 * * *

9 §1552. Financing benefits paid to employees of nonprofit organizations and of the
 10 state, its instrumentalities and political subdivisions and Indian tribes
 11 or tribal units

12 * * *

13 E.**(1)** Each employer who is liable for payments in lieu of contributions shall
 14 pay to the administrator for the fund the amount of regular benefits plus the amount
 15 of extended benefits paid (not reimbursed by the federal government) that are
 16 attributable to services in the employ of such employer, except **in the following**
 17 **circumstances:**

18 ~~(1)(a) that those benefits~~ **Benefits** paid to an individual pursuant to R.S.
 19 23:1635 or through any administrative error shall not be charged to the employer's
 20 account if it is finally determined that such claimant was not entitled to such benefits
 21 or the employer is held not to be liable for such payments; ~~and,~~

22 ~~(2)(b) that benefits~~ **Benefits** paid to an individual who continues to remain
 23 in the employ of a base-period employer without a reduction in the number of hours
 24 worked or wages paid shall not be charged to the employer's accounts. In addition,
 25 any payment previously tendered the administrator on behalf of claims subject to
 26 these exceptions, which occur subsequent to July 23, 1981, shall be immediately
 27 credited to the employer's account.

28 **(2)** If benefits paid to an individual are based on wages paid by more than
 29 one employer and one or more of such employers are liable for payments in lieu of
 30 contributions, the amount attributable to each employer who is liable for such

1 payments shall be an amount which bears the same ratio to the total benefits paid to
2 the individual as the total base-period wages paid to the individual by such employer
3 bear to the total base-period wages paid to the individual by all of his base-period
4 employers.

5 (3)(a) Benefits shall not be charged to the base period employer's
6 account if both of the following conditions are met:

7 (i) Benefits are paid in a situation in which the unemployment is caused
8 solely by an act or omission of any third party or parties, or solely by such act
9 or omission in combination with an act of God or an act of war. The
10 determination of the responsibility of any third party or parties shall be as
11 determined by the Oil Pollution Act, 33 U.S.C. 2701, et seq.

12 (ii) Reimbursement for such benefits shall have been paid by the
13 responsible third party or parties into the Unemployment Trust Fund.

14 (b) The amount owed by any responsible third party or parties shall
15 equal the amount of regular and extended benefits paid to individuals as a result
16 of the act or omission attributed to the responsible party or parties.

17 (c) At the end of each calendar quarter, or at the end of any other period
18 as the administrator may prescribe by regulation, the administrator shall
19 charge the responsible party or parties accordingly.

20 (d) Paragraph (E)(3) of this Section is remedial and shall be retroactive
21 to January 1, 2010.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____