Kirsten J. Gross *Legislative Service Commission*

H.B. 509

123rd General Assembly
(As Reported by H. Commerce & Labor)

Reps. Corbin, Cates

BILL SUMMARY

- Expands the list of services that are not considered "employment" for purposes of determining eligibility to receive unemployment compensation benefits.
- Specifies that only those weeks ending at midnight Saturday within the calendar quarter are to be used to determine the weeks that comprise a calendar quarter for purposes of determining eligibility to receive unemployment compensation benefits.
- Modifies the criteria for determining the validity of an application for determination of benefit rights.
- Removes the exemption from filing notice of separation three days prior to separation as applied to employers engaged in connection with the commercial canning or freezing of fruits and vegetables.
- Specifies that under certain agreements between an employer and an employee, an employee is not considered unable to find suitable employment if the individual fails to inquire with the individual's employer regarding available work assignments.
- Specifies that under certain conditions the Administrator may disclose an individual's wage information to a consumer reporting agency.
- Specifies that under certain conditions, the Administrator does not need to notify an employer that an individual has filed an application for the determination of benefit rights.

- Specifies that determinations concerning the employment of an authorized provider of a certified type B day-care home, for purposes of the Unemployment Compensation Law, must be determined under the Unemployment Compensation Law.

- Eliminates the certification of certain types of claims to the Ohio Supreme Court.

CONTENT AND OPERATION

The definition of employment

Current law specifies what is and is not considered "employment" for purposes of determining eligibility to receive unemployment compensation benefits. The bill adds the following to the existing list of services that are not considered "employment":

1. Service that is performed by an individual working as an election official or election worker if the amount of remuneration received by the individual during the calendar year for services as an election official or election worker is less than $1,000;

2. Service performed for an elementary or secondary school that is operated primarily for religious purposes and exempt from federal income tax;

3. Service performed by a person committed to a penal institution. (Sec. 4141.01(B).)

Base period

Under current law, a base period is used to determine eligibility for unemployment compensation benefits. A base period is comprised of the first four of the last five completed calendar quarters immediately preceding the first day of an individual's benefit year, unless an "alternate base period" is used. An alternate base period may be used to determine eligibility for benefits if a person does not qualify for benefit rights under the normal base period formula. An alternate base period is comprised of the four most recently completed calendar quarters preceding the first day of the individual's benefit year.

The bill specifies that for purposes of determining the weeks that comprise a completed calendar quarter under the definition of a base period or alternate base period, only those weeks ending at midnight Saturday within the calendar quarter are to be used. (Sec. 4141.01(Q)(4).)

Application for determination of benefit rights

Under current law, effective for applications filed for the determination of benefits with respect to weeks beginning on or after October 1, 2000, the application is valid if it is made in accordance with the law governing the filing of an application and if the individual filing the application is unemployed, has been employed by an employer or employers subject to the Unemployment Compensation Law (R.C. Chapter 4141.) in at least 20 qualifying weeks within the individual's base period, has earned or been paid remuneration at an average weekly wage of not less than 27 and 1/2% of the statewide average weekly wage for those weeks, and the reason for the individual's separation is not disqualifying.[1]

Under the bill, any application for determination of benefit rights made in accordance with the law governing the filing of applications is valid if the individual filing the application is unemployed, has been employed by an employer or employers subject to the Unemployment Compensation Law in at least 20 qualifying weeks within the individual's base period, and has earned or been paid remuneration at an average weekly wage of not less than 27 and 1/2% of the statewide average weekly wage for those weeks. Effective for applications filed on and after March 3, 2002, any application for determination of benefit rights made in accordance with the law governing the filing of applications is valid if the individual satisfies the criteria described directly above and if the reason for the individual's separation is not disqualifying.

Additionally, the bill specifies that for purposes of determining whether an individual has had sufficient employment since the beginning of the individual's previous benefit year to file a valid application, "employment" must be interpreted as the performance of services for which remuneration is payable. (Sec. 4141.01(R).)

Notice of separation

Under current law, an employer is required to notify the Administrator of the Bureau of Employment Services if the employer separates, within any seven-

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[1] *In certain situations, when an individual is separated from employment, the individual is disqualified from filing a valid application for unemployment benefits until the disqualification is removed. These situations include quitting for domestic reasons, quitting without just cause, quitting to accept a recall or other employment in certain instances, being discharged with just cause, being committed to a penal institution, refusing to accept work, refusing a referral to work, being discharged because of dishonesty, quitting to attend school, and making false statements in an attempt to obtain unemployment benefits. (Secs. 4141.29(D)(2) and 4141.291.)*

day period, 50 or more individuals because of lack of work and the individuals, upon separation, will be unemployed.[2] The employer is required to furnish the notice at least three working days prior to the date of the first day of this type of separation. In addition, the employer must furnish to the individual being separated or to the Administrator, separation information necessary to determine the individual's eligibility to receive unemployment compensation benefits.

Under current law, an employer of individuals engaged in connection with the commercial canning or freezing of fruits and vegetables is exempt from the requirement that the employer must furnish notice of the separation of 50 or more persons in a seven-day period at least three working days prior to the date of separation. The bill removes this exemption. (Sec. 4141.28(B)(2).)

Notice to an employer

Except in cases where an employer informs the Administrator of the separation of 50 or more employees, under existing law, when an individual files an application for determination of benefit rights, the Administrator promptly must send, in writing, a notice to the individual's most recent separating employer stating that an application for benefits has been made. The notice asks the employer to respond to explain the reason for the individual's unemployment.

The bill specifies that the Administrator need not send this type of notice if any of the following is true with respect to an individual's application for determination of benefit rights:

(1) The Administrator is prohibited by law from revising a previous determination concerning whether the individual may be disqualified from receiving benefits;

(2) The individual's employer indicates to the Administrator that the notice is not needed;

(3) The individual's separation is one among 50 or more individuals separated by the same employer due to a lack of work, the Administrator received information regarding the separations as required by law, and the reason for the separation is not disputed. (Sec. 4141.28(B)(5).)

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[2] *Under H.B. 470 and H.B. 471, which were concurred upon on October 20, 1999, by the 123rd General Assembly, the Bureau of Employment Services is abolished, effective July 1, 2000, and many of its duties are transferred to the newly created Department of Job and Family Services. The bill amends existing law and the newly enacted sections of this bill so that references to the Administrator and Bureau will be changed to the Director of Job and Family Services and the Department of Job and Family Services, as appropriate.*

Suitable work

Under current law, an individual is not entitled to a waiting period or benefits for any week unless the individual has filed a valid application, made a claim for benefits, registered at an employment office or other registration place, is able to work and available for suitable work and is actively seeking suitable work, is unable to obtain suitable work, and participates in reemployment services.

The bill specifies that an individual who is provided temporary work assignments by the individual's employer under agreed terms and conditions of employment, and who is required pursuant to those terms and conditions to inquire with the individual's employer for available work assignments upon the conclusion of each work assignment, is not considered unable to obtain suitable employment if suitable work assignments are available with the employer but the individual fails to contact the employer to inquire about work assignments. (Sec. 4141.29(A)(5).)

Wage information disclosure

The bill provides that the Administrator may disclose wage information furnished to or maintained by the Administrator to a consumer reporting agency as defined by the federal Fair Credit Reporting Act for the purpose of verifying an individual's income under a written agreement that requires all of the following:[3]

(1) A written statement of informed consent from the individual whose information is to be disclosed;

(2) A written statement confirming that the consumer reporting agency and any other entity to which the information is disclosed or released will safeguard the information from illegal or unauthorized disclosure;

(3) A written statement confirming that the consumer reporting agency will pay to the Bureau all costs associated with the disclosure.

The Administrator must prescribe a manner and format for the provision of the above-described information. (Sec. 4141.43(J).)

The bill requires the Administrator to adopt rules defining the requirements of the release of individual income verification information which must include all terms and conditions necessary to meet the requirements of federal law as interpreted by the United States Department of Labor or considered necessary by

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[3] *15 U.S.C.A. 1681a.*

the Administrator for the proper administration of this provision. (Sec. 4141.43(K).)

Type B family day-care homes and covered employment

Current law specifies that certified type B family day-care homes are independent contractors and not employees of the county department of human services that issues certification. The bill specifies that, for purposes of the Unemployment Compensation Law, determinations concerning the employment of an authorized provider of a certified type B family day-care home must be determined under the Unemployment Compensation Law. (Sec. 5104.11(A)(3).)

Joint certification

Under current law, whenever the Administrator and the Chairperson of the Unemployment Compensation Review Commission determine in writing and certify jointly that a controversy exists with respect to the proper application of the Unemployment Compensation Law to more than 500 claimants similarly situated whose claims are pending before the Administrator or the Review Commission or both on redetermination or appeal applied for or filed by three or more employers or by such claimants, the Chairperson must select one claim which is representative of all of those claims and assign it for a fair hearing and decision. Any other claimant or employer in the group who makes a timely request to participate in the hearing and decision also must be given a reasonable opportunity to participate as a party to the proceeding.

Under existing law, this type of joint certification by the Administrator and Chairperson constitutes a stay of further proceedings in the claims of all claimants similarly situated until the issue or issues in controversy are adjudicated by the Supreme Court of Ohio. At the time the decision of the Commission is issued, the Chairperson must certify the Commission's decision directly to the Supreme Court and file with the clerk of the Supreme Court a certified copy of the transcript of the proceedings before the Commission pertaining to its decision. Existing law specifies that hearings on these issues take precedence over all other civil cases. If upon hearing and consideration of the record, the Court decides that the decision of the Commission is unlawful, the Court must reverse and vacate the decision or modify it and enter final judgment in accordance with the modification. Current law specifies that procedure whereby the Commission must notify interested parties of the decision. Promptly upon the final judgment of the Court, the Administrator and the Commission must decide the claims pending before them where the facts are similar and must notify, according to specified procedure, all interested parties of the decision and the reason for the decision. Current law also specifies that the provision described above is not to be construed in a manner that would deny the opportunity for a fair hearing to a claimant.

The bill eliminates this certification procedure. (Sec. 4141.28(N).)

Pamphlets

Under current law, the Administrator is required to furnish instructions in the form of a pamphlet to an individual who files an application for determination of benefit rights. The pamphlet gives instructions for the steps an applicant may take if the applicant's claim for benefits is disallowed, including the applicant's right of appeal, the levels of appeal, and an explanation of where and when each appeal must be filed. The bill eliminates the requirement that these instructions be given in the form of a pamphlet. (Sec. 4141.28(B)(1).)

Federal compliance

Under current law, the Administrator must cooperate with the United States Department of Labor to the fullest extent consistent with Ohio's Unemployment Compensation Law, and must take action, through the adoption of appropriate rules, regulations, and administrative methods and standards, as may be necessary to secure to the State of Ohio and its citizens, all advantages available under the provisions of certain federal acts related to unemployment compensation. To this list of federal acts, the bill adds the "Workforce Investment Act of 1998."[4] (Sec. 4141.43(I).)

Child support obligations

Current law requires the Administrator to deduct and withhold certain amounts from the unemployment compensation of individuals who owe child support. The law requires certain types of these cases to be processed according to an agreement between the Administrator and the Department of Human Services. Pursuant to this agreement, the Department of Human Services is required to reimburse the Bureau of Employment Services for all the Bureau's costs associated with the deduction and withholding of payments related to child support. (R.C. 4141.28(D)(4).)

The language in the above-mentioned provision was amended in H.B. 470, which was concurred upon on October 20, 1999, by the 123rd General Assembly, and takes effect July 1, 2000. Under H.B. 470, the Department of Human Services is renamed the Department of Job and Family Services and, effective July 1, 2000, the Bureau of Employment Services is abolished and most of its duties, including those involving unemployment compensation, are transferred to the Department of Job and Family Services. H.B. 470 eliminates reference to the agreement between

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[4] *112 Stat. 936, 29 U.S.C.A. 2801 et seq.*

the Administrator and the Department of Human Services and reimbursement to the Bureau that appears in current law.

The bill specifies that the types of cases that must be processed according to the agreement required by existing law, instead are to be processed as determined by the Director of Job and Family Services. The bill also requires the Director to determine the intervals for forwarding required amounts to local child support enforcement agencies instead of determining these intervals by the agreement under current law described above. (Sec. 4141.282.)

Under current law, the Administrator is required to deduct and withhold certain amounts from unemployment compensation payable to an individual who owes child support obligations. For applications to establish unemployment compensation benefit rights filed after December 27, 1997, the amount withheld with respect to a week of unemployment benefits must not exceed 50% of the individual's weekly benefit amount as determined by the Administrator.

The bill shifts this provision from the Unemployment Compensation Law to the Court of Common Pleas Organization Law (R.C. Chapter 2301.). This shift does not appear to have any substantive effect on the provision. (Secs. 2301.371(B) and 4141.28(D)(4)(d).)

HISTORY

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Introduced	11-23-99	p. 1373
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