

ORIGINAL SENATE
FILE NO. 0023

ENROLLED ACT NO. 18, SENATE

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to unemployment compensation; complying with federal requirements; amending the benefit disqualification period for false claims; authorizing benefit repayment agreements; providing for consolidated accounts following a business acquisition; making all employers subject to cancellation of the substitute payment option; authorizing installment payment agreements for delinquent employer contributions; providing for personal liability and liens on the property of specified officers and directors of delinquent employers, as specified; amending the threshold for incremental bonds for impact industries; amending and providing definitions; authorizing publishing the identity of state agency employing units as specified; repealing provisions inconsistent with the federal unemployment tax act; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 27-3-102(a)(xxi), 27-3-311(e), 27-3-409(b)(intro), by creating a new paragraph (iii) and (f)(intro), 27-3-507(a), 27-3-509(f)(intro) and (i), 27-3-510(e)(intro), 27-3-511 by creating new subsections (f) and (g), 27-3-516(a) and 27-3-607 by creating a new subsection (d) are amended to read:

27-3-102. Definitions generally.

(a) As used in this act:

(xxi) "Casual labor" means service ~~of less than two (2) consecutive weeks and~~ not within the normal course of business and for which the remuneration paid is less than fifty dollars (\$50.00);

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**27-3-311. Disqualifications from entitlement;
grounds; forfeiture.**

(e) Any person who knowingly files a claim for benefits which contains a false statement or misrepresentation of a material fact, as determined by the department, shall be disqualified from receiving benefits for a fifty-two (52) week period beginning the week in which the false statement or misrepresentation was made or beginning the week following the date that notice of the overpayment ~~determination or decision~~ is mailed to the person who filed the claim.

**27-3-409. Payment of benefits upon determination;
repayment of overpaid benefits; penalty.**

(b) An individual receiving benefits under this act to which he is not entitled shall be liable for and repay the benefit. Repayment of the benefits shall be had ~~either~~ by any combination of recoupment, recovery by civil action or ~~both~~ voluntary reimbursement agreement:

(iii) The department in its discretion, without civil action, may accept repayment of overpaid benefits by reimbursement from an individual pursuant to a payment schedule approved by the department.

(f) The department may cancel the amount of overpayments or penalty due on any overpayment after ~~the expiration of the time period described in paragraph (b)(i) of this section~~ eight (8) years from the effective date of the claim resulting in the overpayment when:

**27-3-507. Person acquiring trade of employing unit;
transfer of experience and assignment of rates.**

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(a) A person acquiring the trade, organization, business or substantially all the assets of an employer subject to this act shall assume the employer's account, benefit experience and contribution rate. If the acquiring person is an employer subject to this act, the department shall consolidate the separate accounts and benefit experience and shall determine the contribution rate of the acquiring person effective the first day of the calendar quarter following the date of acquisition. A delinquency rate shall be assumed by the acquiring person as provided in W.S. 27-3-503(b) when the acquiring person owned or controlled an interest in the transferring employer or if the acquiring person is a member of the immediate family of the transferring employer.

27-3-509. Election of substitute payments by certain organizations authorized; filing and liability period; billing; posting of security; exceptions.

(f) Any ~~Indian tribe or tribal unit~~ employer failing to make required payments under this section, including assessments of interest and penalties, within ninety (90) days after receipt of a bill, shall not be eligible for making payments under this section for the following tax year unless full payment is received by the department before the contribution rates for the next tax year are computed under this act, subject to the following:

(i) Any ~~Indian tribe~~ employer losing the option to make payments under this section because of late payments or nonpayment under this subsection shall have the option reinstated if after one (1) year, all contributions have been paid on a timely basis and no contributions, payments instead of contributions for paid benefits, penalties or interest remain outstanding;

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27-3-510. Delinquencies; interest to be charged; deposit; collection by civil action; jeopardy assessments; posting of bond; liability of corporate officers and directors.

(e) Any officer or director having at least twenty percent (20%) ownership interest of a corporate employing unit and any manager of a limited liability company having at least twenty percent (20%) ownership interest of a limited liability company employing unit, who controls or supervises filing contribution reports or making payment contributions under this act and who ~~willfully~~ fails to file the reports or make required payments, and the employing unit fails to pay the amounts due the department, is liable for the contributions or reimbursement including interest, penalties and costs. Liability under this subsection shall:

27-3-511. Delinquencies; lien; foreclosure; notice and hearing; satisfaction and release; remedies not exclusive.

(f) Notwithstanding any other provision of this section, the department may enter into installment payment agreements for delinquent tax and interest liabilities where repayment requirements are met and where payment in a lump sum would cause severe inconvenience to the taxpayer.

(g) For purposes of this section, "employer" includes those individuals described in W.S. 27-3-510(e) under the conditions described in that section.

27-3-516. Incremental bond for impact industries.

(a) Any project in Wyoming with an estimated construction cost ~~of at least one hundred million dollars~~

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~~(\$100,000,000.00)~~ equal to or greater than the threshold construction cost defined by the industrial siting council pursuant to W.S. 35-12-102(a)(vii), a majority of which is planned to be completed or discontinued within a period of seven (7) years, and which will require the employment of at least two hundred fifty (250) people is subject to this section. After the project is initiated, each employing unit working on a project which meets the criteria specified under this section shall report annually to the department any change in contract bids within the state as may have been determined under subsection (b) of this section.

27-3-607. Cooperation by department with federal and state agencies; disclosure and submission of specified information; limitations.

(d) The department may conduct and publish statistical analysis of payroll and employment of state agencies in the executive branch which may reveal the identity of state agency employing units.

Section 2. W.S. 27-3-102(a)(xviii)(M) and (R) and 27-3-108(a)(xii) are repealed.

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Section 3. This act is effective July 1, 2010.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk