

Regular Session, 2013

# ACT No. 48

HOUSE BILL NO. 566

BY REPRESENTATIVE DIXON

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

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AN ACT

To amend and reenact R.S. 23:1665 and to enact R.S. 23:1665.1, 1665.2, and 1665.3, relative to unemployment compensation; to provide for reciprocal arrangements between federal and state agencies; to provide for a reciprocal overpayment recovery arrangement; to provide definitions; to provide with respect to duties and responsibilities of requesting and recovering states; to provide for recovery of combined wage claims; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1665 is hereby amended and reenacted and R.S. 23:1665.1, 1665.2, and 1665.3 are hereby enacted to read as follows:

§1665. Reciprocal arrangements with federal and state agencies

A. The administrator may enter into reciprocal arrangements with appropriate and duly authorized agencies of other states or of the United States, or both, whereby:

- (1) Service performed by an individual for a single employing unit for which services are customarily performed by such individual in more than one state shall be deemed to be services performed entirely within any one of the states (i) in which any part of such individual's service is performed or (ii) in which such individual has his residence or (iii) in which the employing unit maintains a place of business, provided there is in effect, as to such services, an election, approved by the agency

1 charged with the administration of such state's unemployment compensation law,  
2 pursuant to which all the services performed by such individual for such employing  
3 unit are deemed to be performed entirely within such state;

4 (2) Potential rights to benefits accumulated under the unemployment  
5 compensation laws of one or more states or of the United States, or both, may  
6 constitute the basis for the payment of benefits through a single appropriate agency  
7 under terms which the administrator finds will be fair and reasonable as to all  
8 affected interests and will not result in any substantial loss to the fund;

9 (3) Wages or services, upon the basis of which an individual may become  
10 entitled to benefits under an unemployment compensation law of another state or of  
11 the United States, shall be deemed to be wages for insured work for the purpose of  
12 determining his rights to benefits under this Chapter, and wages for insured work,  
13 on the basis of which an individual may become entitled to benefits under this  
14 Chapter shall be deemed to be wages or services on the basis of which  
15 unemployment compensation under such law of another state or of the United States  
16 is payable; but no such arrangement shall be entered into unless it contains  
17 provisions for reimbursements to the fund for such of the benefits paid under this  
18 Chapter upon the basis of such wages or services, and provisions for reimbursements  
19 from the fund for such of the compensation paid under such other law upon the basis  
20 of wages for insured work, as the administrator finds will be fair and reasonable as  
21 to all affected interests; and

22 (4) For the purposes of R.S. 23:1543 through R.S. 23:1551, contributions due  
23 under this Chapter with respect to wages for insured work shall be deemed to have  
24 been paid to the fund as of the date payment was made as contributions therefor  
25 under another state or federal unemployment compensation law; but no such  
26 arrangement shall be entered into unless it contains provisions for the reimbursement  
27 of such contributions and the actual earnings thereon, as the administrator finds will  
28 be fair and reasonable as to all affected interests.

29 Reimbursements paid from the fund pursuant to ~~paragraph~~ Paragraph (3) of  
30 this Section shall be deemed to be benefits for the purpose of Parts II and V of this

1 Chapter. The administrator may make to other state or federal agencies and receive  
2 from them, reimbursements from or to the fund, in accordance with arrangements  
3 entered into pursuant to the provisions of this Section.

4 B. The administrator may enter into reciprocal arrangements concerning  
5 recovery of overpaid benefits with appropriate and duly authorized agencies of other  
6 states or of the United States, or both.

7 §1665.1. Definitions

8 As used in this Section, the following terms shall have the meanings ascribed  
9 to them as follows:

10 (1) "Form IB-8606" is the interstate request for recovery document  
11 submitted by states when requesting assistance in recovering overpayments.

12 (2) "Liable state" means any state against which an individual files a claim  
13 for benefits through another state.

14 (3) "Offset" means the withholding of an amount against benefits which  
15 would otherwise be payable for a compensable week of unemployment.

16 (4) "Overpayment" means an improper payment of benefits from a state or  
17 federal unemployment compensation fund that has been determined recoverable  
18 under the requesting state's law.

19 (5) "Participating state" means a state which has subscribed to the Interstate  
20 Reciprocal Overpayment Recovery Arrangement.

21 (6) "Paying state" means the state under whose law a claim for  
22 unemployment benefits has been established on the basis of combining wages and  
23 employment covered in more than one state.

24 (7) "Payment" means a check or electronic transfer for the amount  
25 recovered.

26 (8) "Recovering state" means the state that has received a request for  
27 assistance from a requesting state.

28 (9) "Requesting state" means the state that has issued a final determination  
29 of overpayment and is requesting another state to assist in recovering the outstanding  
30 balance from the overpaid individual.

1           (10) "State" means any of the fifty states of the United States of America, as  
 2           well as the District of Columbia, Puerto Rico, and the United States Virgin Islands.

3           (11) "Transferring state" means a state in which a combined wage claimant  
 4           had covered employment and wages in the base period of a paying state, and which  
 5           transferred such employment and wages to the paying state for its use in determining  
 6           the benefit rights of such claimant under its law.

7           §1665.2. Recovery of state or federal benefit overpayments

8           A. The requesting state shall do all of the following:

9           (1) Send the recovering state a written or electronic request for overpayment  
 10           recovery assistance, Form IB-8606, which includes certification that the  
 11           overpayment is legally collectable under the requesting state's law, certification that  
 12           the determination is final and that any rights to postponement of recoupment have  
 13           been exhausted or have expired, a statement as to whether the state is participating  
 14           in the cross-program overpayment recovery agreement with the United States  
 15           secretary of labor, a copy of the initial overpayment determination, and a statement  
 16           of the outstanding balance.

17           (2) Send notice of this request to the claimant.

18           (3) Send a new outstanding overpayment balance to the recovering state  
 19           whenever the requesting state receives any amount of repayment from a source other  
 20           than the recovering state.

21           B. The recovering state shall:

22           (1) Issue an overpayment recovery determination to the claimant which  
 23           includes at a minimum all of the following:

24           (a) The statutory authority for the offset.

25           (b) The opportunity to appeal the offset of benefits if the recovering state  
 26           allows for appeal on the recovery of overpayment of regular unemployment  
 27           compensation paid by such state.

28           (c) The name of the state requesting recoupment.

29           (d) The date of the original overpayment determination.

30           (e) The type of overpayment, fraud, or mistake.

1                    (f) The program type, including but not limited to UI, UCFE, UCX, TRA.

2                    (g) The total amount to be offset.

3                    (h) The amount to be offset weekly.

4                    (i) Instructions that any questions about the overpayment amount should be  
5 referred to the requesting state.

6                    (2) Offset benefits payable for each week claimed in the amount determined  
7 under state law.

8                    (3) Notify the claimant of the amount offset.

9                    (4) Prepare and forward, no less than once a month, a payment representing  
10 the amount recovered, made payable to the requesting state, except as provided for  
11 in combined wage claims.

12                    (5) Retain a record of the overpayment balance.

13                    (6) Not redetermine the original overpayment determination.

14                    (7) Recover across benefit years and programs.

15                    (8) Use the ET Handbook No. 392, or any official superceding United States  
16 Department of Labor requirements for determining priorities for offsetting  
17 overpayments.

18                    §1665.3. Combined wage claims; recovery of outstanding overpayment in  
19 transferring state

20                    A. The paying state shall:

21                    (1) Offset any outstanding overpayment in a transferring state prior to  
22 honoring a request from any other participating state.

23                    (2) Credit the deductions against the statement of benefits paid to combined  
24 wage claimants, Form IB-6, or forward a payment to the transferring state.

25                    (3) Refer to the Interstate Benefit Payment Control section in the ET  
26 Handbook No. 392, Handbook for Interstate Claimstaking, or any superceding  
27 United States Department of Labor requirements for the priorities of offsetting  
28 overpayments.

1                    B. Withdrawal of a combined wage claim after benefits have been paid shall  
 2                    be honored only if the combined wage claimant has repaid any benefits paid or  
 3                    authorizes the new liable state to offset the overpayment.

4                    C. The paying state shall issue an overpayment determination and forward  
 5                    a copy, together with an overpayment recovery request and an authorization to offset,  
 6                    to the liable state.

7                    D. The recovering state shall:

8                    (1) Prioritize the offset of overpayments as described in the Interstate  
 9                    Benefit Payment Control section of the ET Handbook No. 392, Handbook for  
 10                    Interstate Claimstaking, or any superceding United States Department of Labor  
 11                    requirements.

12                    (2) Offset the total amount of any overpayment, resulting from the  
 13                    withdrawal of a combined wage claim, prior to the release of any payments to the  
 14                    claimant.

15                    (3) Offset the total amount of any overpayment, resulting from the  
 16                    withdrawal of a combined wage claim, prior to honoring a request from any other  
 17                    participating state.

18                    (4) Provide the claimant with a notice of the amount offset.

19                    (5) Prepare and forward a payment representing the amount recovered to the  
 20                    requesting state.

21                    E. The recovering state shall offset benefits payable under a state  
 22                    unemployment compensation program to recover any benefits overpaid under a  
 23                    federal unemployment compensation program as described in the recovering state's  
 24                    agreement with the United States secretary of labor as provided in this Section, as  
 25                    appropriate, if the recovering state and requesting state have entered into an

1 agreement with the United States secretary of labor to implement Section 303(a) of  
the Social Security Act.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_