

House Research Bill Summary

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Overview

This is a bill dealing with unemployment insurance from the Department of Employment and Economic Development (DEED).

Section

- 1 1 **Average weekly wage.** For purposes of calculation of average weekly wage, provides that wage detail reports, and not tax reports, be used. The tax reports are no longer produced.
- 2 2 **Electronic transmission; when allowed; sending to last known address required.** Permits DEED to send notices, determinations, and decisions to applicants and employers by electronic mail only if the person has requested that. Requires that those communications, whether sent by mail or electronically, be sent to the last known address. If the commissioner is notified that an electronic address is no longer valid, requires that the item be mailed to the last known mailing address.
- 3 3 **Computation of time.** Provides that deadlines that would otherwise fall on a weekend or holiday are extended to the next business day. This cross-references a law that applies generally as a default rule in Minnesota Statutes unless otherwise stated.
- 4 4 **Back pay.** Broadens the definition of back pay so as not to exclude back pay awarded voluntarily by an employer.
- 5 5 **Commissioner.** Name change to DEED.
- 6 6 **Department.** Name change to DEED.

Section

- 7 7 **Electronic transmission.** Defines electronic transmission broadly, including in the definition a telephone communication if permitted by the commissioner.
- 8 8 **Employment.** Changes the definition of employment to include service performed by a member of a limited liability company (LLC) member, regardless of how much of the company the member owns. Under current law, work done by LLC members who own 25 percent or more of the company cannot be considered employment.
- 9 9 **Filed; filing.** Change to conform to section 7 above.
- 10 10 **Noncovered employment.** Adds to the definition of noncovered employment of a corporate officer or of a member of an LLC, if the person owns at least 25 percent of the corporation or LLC. This has the effect of making unemployment insurance on these employees voluntary for the employer.
- 11 11 **Suitable employment.** Adds to the definition of suitable employment by adding for those with a partial disability, who cannot perform the duties of their usual work, any work that the employee can perform. This is related to section 61.
- 12 12 **Wage detail report.** Eliminates from a definition substantive requirements moved to another statute in section 17 of this bill.
- 13 13 **Employer registration.** Requires new employers to register with DEED electronically, and requires employers going out of business to notify DEED of that electronically.
- 14 14 **Election to have noncovered employment considered covered employment.** Makes technical changes. Requires that elections by employers to have noncovered employment treated as covered employment be sent to the commissioner electronically. Makes explicit the commissioner's discretion to accept or reject the election.
- 15 15 **Electronic transaction presumption.** Provides that an electronic transaction with the commissioner, using an employer number or code assigned to an employer by the commissioner, is presumed to have been transacted by that employer, unless a preponderance of the evidence is to the contrary.
- 16 16 **Determination of coverage.** Changes the internal appeal process for disputes over the unemployment tax owed by an employer.
- 17 17 **Wage detail report.** Requires that quarterly wage detail reports sent by employers be sent electronically. Adds language moved in section 12 of this bill. Makes technical changes.
- 18 18 **Electronic transmission of report required.** Eliminates an exemption from electronic submission of wage detail reports by employers who have fewer than 50 employees. Gives the commissioner discretion to accept those reports if not sent electronically.
- 19 19 **Failure to timely file report; late fees.** Changes the penalty for late filing of a quarterly wage detail report from 0.5 percent of wages paid that quarter to \$10 per employee. Waives the late fee under certain circumstances. Doubles the late fee for non-compliance with a demand for its submission. References a compromise process for late fees.
- 20 20 **Missing or erroneous information.** Renames a \$25 penalty as an "administrative service fee." Current law imposes the penalty for "knowingly" failing to provide information on an employee. The change removes "knowingly" from the description of the offense, making the administrative service fee automatic, subject to a later compromise if the commissioner determines that the omission was "inadvertent."
- 21 21 **Fees.** Changes terminology from penalties to fees.

Section

22 22 Employer tax or reimbursable accounts.

Subd. 1. No change

Subd. 2. Common paymaster tax account. Requires related corporations that want a common UI tax account to apply for that electronically. Makes explicit the commissioner's discretion as to whether to grant the request.

Subd. 3. Joint tax account. Makes technical changes. Makes explicit the commissioner's discretion as to whether to accept a request by employers for a joint tax account. Requires electronic transmission of a notice to terminate a joint tax account.

Subd. 4. Group reimbursable account. Requires electronic filing. Makes explicit the commissioner's discretion as to whether to accept an application.

23 23 Notice of unemployment benefits paid. Clarifies that reports to employers of benefits paid to applicants must be itemized by applicant. Removes obsolete language about disputes with employers regarding the accuracy of the notice. Permits the commissioner to correct any error in the notice, whether clerical or otherwise.

24 24 Payments. Provides that the commissioner determines the tax due from an employer from the wage detail reports and notifies the employer of the amount of tax due. Requires recomputation of the tax if the wage detail reports are later adjusted. Dollar amounts are rounded down to the next lower whole dollar.

25 25 Payments by electronic payment required. Requires payment of tax electronically by employers that have more than 500 employees or if paid through third-party processors. Gives the commissioner discretion to accept payment in other ways.

26 26 Computation of a taxpaying employer's experience rating. Clarifies language on the timing of the experience rating calculation. Requires the rating to be calculated to the nearest one-hundredth of a percent, rather than the nearest tenth of a percent.

27 27 Experience rating transfer. When one firm acquires part of another firm, provides that the acquiring firm acquires the percentage of the acquired firm's experience rating that corresponds to the percentage of employment positions that are related to the acquired portion of the business. Describes the process for dealing with a dispute regarding successorship issues.

28 28 Tax rate for new employers. Conforms, for new employers, to the change to calculation of the tax to the nearest one-hundredths of one percent. Provides for a notice of the tax rate to new employers, which the new employer may protest.

29 29 Notice of tax rate. Clarifies timing of annual notice of tax rate, to conform to an earlier section regarding the timing of the calculation. Permits the commissioner to correct any type of error in the notice.

30 30 Tax rate buydown. Requires that voluntary repayments by employers of benefits paid, to buydown the tax rate, must be made electronically. Changes the time requirement for payments.

31 31 Annual payment of small liabilities. Clarifies language on annual payment of small tax amounts.

Section

- 32 32** **Payments.** Clarifies that payment is made when received by the department.
- 33 33** **Election by state or political subdivision to be a taxpaying employer.** Requires electronic transmission of a notice electing or terminating an election by a government to pay the tax.
- 34 34** **Election.** Same as above but involves nonprofit organizations that want to make an election, or terminate one, to make reimbursements rather than pay taxes.
- 35 35** **Determination, protest, and appeal.** Specifies the protest process for an election by a nonprofit to reimburse rather than pay the tax.
- 36 36** **Payments.** Clarifies that payments are considered made when received by the department.
- 37 37** **Collection of taxes.** Eliminates quarterly tax reports, resulting in the use of quarterly wage detail reports instead for calculation of an employer's tax. Specifies the priority of payments, in other words, to which liabilities they will be applied first. Permits estimated tax liabilities only when an employer has refused an audit. Clarifies that an employer's liability for the state's collection costs includes attorney fees. Specifies the use of money deposited into the administration account. Provides that a refund returned to the commission will be dealt with under the unclaimed property act. Describes the protest procedure for credit adjustments.
- 38 38** **Lien, levy, setoff, and civil action.** Clarifies language on amounts owed, whether by employers or benefit recipients, for purposes of creating a lien in favor of the state. Eliminates requirement that a department attorney, who is a classified employee, sign any agreement to sell foreclosure redemption rights owned by the department. Miscellaneous technical changes.
- 39 39** **Notice.** Permits the commissioner to send garnishment notices to debtors and their employers.
- 40 40** **Discharge or discipline prohibited.** Requires the employer of a debtor whose wages are being garnished to notify the commissioner electronically if the employer no longer works for that employer.
- 41 41** **Revocations of business licenses.** Clarifies language on the department's right to prevent business licenses to delinquent debtors of the department.
- 42 42** **Personal liability.** Technical changes.
- 43 43** **Acquisition of organization, trade, business, or assets.** Technical change.
- 44 44** **Statement of amount due.** Technical change.
- 45 45** **Subcontractors.** Technical and conforming changes.
- 46 46** **Employee leasing firms.** Technical change.
- 47 47** **Cancellation of amounts due from an employer.** Broadens the commissioner's authority to write off amounts owed to the department as uncollectible.
- 48 48** **Compromise.** Technical changes. Also eliminates requirement of involvement of a department attorney in compromises of liability of \$2,500, or less. Eliminates requirement that an attorney involved in larger compromises be a classified employee. Eliminates the requirement of a written order by an attorney specifying the terms and reasons for the

Section

- compromise.
- 49 49** **No election of remedy.** Technical change.
- 50 50** **Application for unemployment benefits; determination of benefit account.** Changes the law on accepting the applicant's certification of wage credits in situations in which the employer did not provide information or provided erroneous information.
- 51 51** **Benefit account requirements and weekly unemployment benefit amount and maximum amount of unemployment.** A very technical change.
- 52 52** **Second benefit account requirements.** Eliminates unnecessary language.
- 53 53** **Eligibility conditions.** Conforming change. Eliminates unnecessary verbiage.
- 54 54** **Not eligible.** Conforming change.
- 55 55** **Payments that could delay unemployment benefits.** Adds language regarding applications that could result in overpayments. Makes a conforming change.
- 56 56** **Social Security benefits.** Change to deal with a conflict between this law and the federal Americans with Disabilities Act (ADA), regarding the interaction between unemployment benefits and Social Security disability status. Also makes a conforming change.
- 57 57** **Deductible earnings.** Makes conforming changes.
- 58 58** **Receipt of back pay.** Makes clear that all back pay, including a voluntary payment, is deducted from benefits. This relates to an earlier section of this bill, dealing with back pay.
- 59 59** **Aliens.** Provides an exception for Canadians from an ineligibility law for aliens. This acknowledges a treaty, which states have to obey anyway.
- 60 60** **Leave of absence.** Clarifies the distinction between voluntary and involuntary leaves of absence, for purposes of unemployment benefits eligibility.
- 61 61** **Able to work defined.** Broadens the definition to include "suitable employment." This section relates to section 11 of this bill.
- 62 62** **Quit.** Clarifies language.
- 63 63** **Good reason caused by the employer defined.** Provides that the only "good reason" for quitting as a matter of law will be sexual harassment, as defined in paragraph (f). Requires that any other reason be evaluated based on its specific facts and on whether a reasonable person would quit in that situation, and not be automatically considered good cause to quit.
- 64 64** **Discharge.** Provides technical cross-references.
- 65 65** **Aggravated employment misconduct defined.** Makes the definition of "aggravated employment misconduct" by an applicant for benefits tougher to meet.
- 66 66** **Disqualification determination.** Allows notices of disqualification determinations to be sent electronically.
- 67 67** **Eligibility determinations.** Allows electronic submission of notices. Eliminates language referencing asking a determination of eligibility when requested by an employer, whether the request is timely or untimely.

Section

- 68 68** **Direct hearing.** Conforms to section 71.
- 69 69** **Amended determination.** Permits electronic notification of an amended determination.
- 70 70** **Appeals by electronic transmission.** Permits appeals to be filed by electronic transmission or by mail. Eliminates filing appeals by telephone. Provides that a written statement that could reasonably be interpreted as an appeal must be treated as an appeal.
- 71 71** **Appeals.** Changes the appeal process in a variety of ways. Eliminates involvement of the commissioner. Creates the position of senior unemployment review judge to replace the position of Commissioner's Representative. Eliminates a requirement that unemployment law judges be classified employees. Permits a senior unemployment law judge to decline to conduct a de novo hearing and to dismiss the appeal if the significant facts are undisputed or if the appellant, without good cause, did not appear at the initial hearing held by an unemployment law judge.
- 72 72** **Maximum amount of extended unemployment benefits.** Conforming change.
- 73 73** **Maximum amount of unemployment benefits.** Conforming change.
- 74 74** **Definitions.** Requires a shared work plan to be submitted in a manner and format prescribed by the commissioner.
- 75 75** **Participation.** Conforms to preceding section. Permits electronic transmission.
- 76 76** **Weekly benefit amount.** Conforming change.
- 77 77** **Notification.** Conforming change.
- 78 78** **Nonfraud overpayment.** Permits electronic transmission. Conforming changes.
- 79 79 -** Not included in this summary.
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