
DIGEST

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Stokes

HB No. 880

Abstract: Provides with respect to unemployment insurance tax delay periods.

Present law relative to unemployment insurance contributions provides that within 180 days of the date of issuance of a liability determination, or a tax rate resulting from that determination, an employer may apply for review pursuant to present law of the determination unless it is found to have resulted from an administrative error. Proposed law revises present law to provide that an employer may apply for such review of the liability determination in accordance with the time delays and procedures provided in proposed law.

Proposed law deletes present law requiring the administrator of the unemployment compensation program ("administrator"), not later than Oct. 1 annually, to render a statement to each employer of benefits paid to each individual and charged to his experience-rating record for the most recent 12-month period ending June 30.

Present law stipulates that no employer shall have standing in any proceeding involving chargeability of benefits to his experience-rating record to contest the chargeability of any benefits paid in accordance with a determination, reconsidered determination, or decision of which he was given notice and an opportunity to be heard, or to contest the chargeability to his record of any benefits on the grounds of potential disqualification because of circumstances surrounding separation from employment if he was not entitled to such notice. Proposed law revises present law to stipulate that no employer that was a party to the separation or was issued a notice of chargeability pursuant to proposed law shall have standing to contest the quarterly charge statement.

Proposed law deletes all of the following provisions of present law:

- (1) Provisions establishing that subject to certain limitations, if an employer in application for review alleges error in the determination or decision under which benefits charged to his experience-rating record were paid, the determination or decision shall have no force and effect as against such employer.
- (2) Provisions requiring the administrator to affirm, modify, or reverse the determination or decision in (1) above; and requiring that notice of the administrator's action be given, and authorizing appeal therefrom to be taken, provided that in any such proceedings the employer is entitled to notice and otherwise has the same rights as a party entitled to notice.

- (3) Provisions requiring the administrator to adjust the experience-rating record of an employer in accordance with any reconsidered determination or decision modifying or reversing the determination, reconsidered determination, or decision alleged to be in error by the employer; and to affirm or modify any contribution rate based upon such record.
- (4) Provisions establishing that subject to certain limitations, if an employer alleges that certain benefits are not properly chargeable to his experience-rating record on grounds other than error in the determination or decision under which the benefits were paid, the administrator shall give him an opportunity for a fair hearing; and, based on findings, shall make such adjustments in the employer's experience-rating record and contribution rate as may be required.
- (5) Provisions requiring prompt notification to an employer of the administrator's action which shall become final unless one of the following occur:
 - (a) Within 20 days after the mailing of notice of the action a petition for judicial review is filed in the district court of the employer's domicile.
 - (b) Within 15 days of delivery of such notice a petition for judicial review is filed in the district court of the employer's domicile.

Proposed law provides that if an employer who was not a party to the separation determination or decision, or who was not issued a determination of chargeability pursuant to proposed law, alleges in his application for review of the quarterly charge statement that benefits were not properly charged to his experience-rating record, the administrator shall affirm, modify, or reverse such charges by issuing a determination of chargeability as provided in proposed law.

Present law provides that a determination relative to an employer's rate of contribution for the forthcoming calendar year to the Incumbent Worker Training Account shall be conclusive and binding unless the employer appeals the determination within 20 days after the mailing of notice or, in the absence of mailing, within 15 days after the delivery of such notice. Proposed law deletes reference to 15-day period commencing with delivery of such notice, providing that the employer may appeal only within 20 days after the mailing of notice.

Proposed law changes procedure for contesting a determination of chargeability of benefits to base-period employers from an application for review by the administrator of the unemployment compensation program to an appeal procedure in which an administrative law judge shall hear and act upon the appeal.

Proposed law revises present law relative to penal provisions within the unemployment compensation program (R.S. 23:1711 et seq.) to provide the following:

- (1) Authorize determinations of liability
- (2) Extend the period allowed for action by employers and the administrator in certain review

and appeal procedures from 10 days to 30 days.

Proposed law revises present law relative to Professional Employer Organizations (PEOs) within the unemployment compensation program (R.S. 23:1761 et seq.) to change the period allowed for actions on application for, renewal, and revocation of certain registrations from within 30 days of receipt of a statement to within 30 days of mailing of a statement.

(Amends R.S. 23:1540-1541.1, 1711(G)(1)(d), 1722-1724, 1728, 1766(B), and 1767(D))