102ND GENERAL ASSEMBLY
State of Illinois
2021 and 2022
HB2773

Introduced 2/19/2021, by Rep. Suzanne Ness

SYNOPSIS AS INTRODUCED:
820 ILCS 405/900 from Ch. 48, par. 490

Amends the Unemployment Insurance Act to provide that if an individual's benefit year begins on or after March 8, 2020, but before the week following the last week of a disaster period established by the gubernatorial disaster proclamations in response to COVID-19, recovery by suit in the name of the People of the State of Illinois or recoupment from benefits payable to an individual for any week shall be permanently waived if the sum was received by the individual without fault on his or her part. Provides that, in cases of such permanent waiver of recovery or recoupment, the Director of Employment Security may not request the Comptroller or the Secretary of the Treasury to withhold a sum of benefits for which an individual is found to be ineligible. Effective immediately.
AN ACT concerning employment.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Unemployment Insurance Act is amended by changing Section 900 as follows:

(820 ILCS 405/900) (from Ch. 48, par. 490)

Sec. 900. Recoupment.

A. Whenever an individual has received any sum as benefits for which he is found to have been ineligible, the amount thereof may be recovered by suit in the name of the People of the State of Illinois, or, from benefits payable to him, may be recouped:

1. At any time, if, to receive such sum, he knowingly made a false statement or knowingly failed to disclose a material fact.

2. Within 3 years from any date prior to January 1, 1984, on which he has been found to have been ineligible for any other reason, pursuant to a reconsidered finding or a reconsidered determination, or pursuant to the decision of a Referee (or of the Director or his representative under Section 604) which modifies or sets aside a finding or a reconsidered finding or a determination or a reconsidered determination; or within 5
years from any date after December 31, 1983, on which he
has been found to have been ineligible for any other
reason, pursuant to a reconsidered finding or a
reconsidered determination, or pursuant to the decision of
a Referee (or of the Director or his representative under
Section 604) which modifies or sets aside a finding or a
reconsidered finding or a determination or a reconsidered
determination. Recoupment pursuant to the provisions of
this paragraph from benefits payable to an individual for
any week may be waived upon the individual's request, if
the sum referred to in paragraph A was received by the
individual without fault on his part and if such
recoupment would be against equity and good conscience.
Such waiver may be denied with respect to any subsequent
week if, in that week, the facts and circumstances upon
which waiver was based no longer exist.

3. Notwithstanding paragraph 2, if the individual's
benefit year begins on or after March 8, 2020, but prior to
the week following the last week of a disaster period
established by the gubernatorial disaster proclamation in
response to COVID-19, dated March 9, 2020, and any
subsequent gubernatorial disaster proclamation in response
to COVID-19, recovery by suit in the name of the People of
the State of Illinois or recoupment pursuant to paragraph
2 from benefits payable to an individual for any week
shall be permanently waived if the sum referred to in
subsection A was received by the individual without fault on his or her part.

B. Whenever the claims adjudicator referred to in Section 702 decides that any sum received by a claimant as benefits shall be recouped, or denies recoupment waiver requested by the claimant, he shall promptly notify the claimant of his decision and the reasons therefor. The decision and the notice thereof shall state the amount to be recouped, the weeks with respect to which such sum was received by the claimant, and the time within which it may be recouped and, as the case may be, the reasons for denial of recoupment waiver. The claims adjudicator may reconsider his decision within one year after the date when the decision was made. Such decision or reconsidered decision may be appealed to a Referee within the time limits prescribed by Section 800 for appeal from a determination. Any such appeal, and any appeal from the Referee's decision thereon, shall be governed by the applicable provisions of Sections 801, 803, 804 and 805. No recoupment shall be begun until the expiration of the time limits prescribed by Section 800 of this Act or, if an appeal has been filed, until the decision of a Referee has been made thereon affirming the decision of the Claims Adjudicator.

C. Any sums recovered under the provisions of this Section shall be treated as repayments to the Department of sums improperly obtained by the claimant.

D. Whenever, by reason of a back pay award made by any
governmental agency or pursuant to arbitration proceedings, or by reason of a payment of wages wrongfully withheld by an employing unit, an individual has received wages for weeks with respect to which he has received benefits, the amount of such benefits may be recouped or otherwise recovered as herein provided. An employing unit making a back pay award to an individual for weeks with respect to which the individual has received benefits shall make the back pay award by check payable jointly to the individual and to the Department.

E. The amount recouped pursuant to paragraph 2 of subsection A from benefits payable to an individual for any week shall not exceed 25% of the individual's weekly benefit amount.

Except in the case of permanent waiver of recovery or recoupment as provided in paragraph 3 of subsection A, in addition to the remedies provided by this Section, when an individual has received any sum as benefits for which he is found to be ineligible, the Director may request the Comptroller to withhold such sum in accordance with Section 10.05 of the State Comptroller Act and the Director may request the Secretary of the Treasury to withhold such sum to the extent allowed by and in accordance with Section 6402(f) of the federal Internal Revenue Code of 1986, as amended. Benefits paid pursuant to this Act shall not be subject to such withholding. Where the Director requests withholding by the Secretary of the Treasury pursuant to this Section, in
addition to the amount of benefits for which the individual has been found ineligible, the individual shall be liable for any legally authorized administrative fee assessed by the Secretary, with such fee to be added to the amount to be withheld by the Secretary.

(Source: P.A. 97-621, eff. 11-18-11; 97-791, eff. 1-1-13.)

Section 99. Effective date. This Act takes effect upon becoming law.