



## 94TH GENERAL ASSEMBLY

### State of Illinois

2005 and 2006

HB2440

Introduced 02/17/05, by Rep. Linda Chapa LaVia

#### SYNOPSIS AS INTRODUCED:

820 ILCS 405/502 new	
820 ILCS 405/601	from Ch. 48, par. 431
820 ILCS 405/603	from Ch. 48, par. 433
820 ILCS 405/604	from Ch. 48, par. 434

Amends the Unemployment Insurance Act. Provides that an individual is not ineligible for benefits solely because his or her unemployment is due to a stoppage of work because of a labor dispute where he or she is or was last employed. Provides that the disqualifications based on voluntary leaving and refusal of work do not apply to an individual whose unemployment is due to a stoppage of work because of a labor dispute where he or she is or was last employed.

LRB094 06092 WGH 36155 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

1 AN ACT concerning employment.

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

4 Section 5. The Unemployment Insurance Act is amended by  
5 adding Section 502 and changing Sections 601, 603, and 604 as  
6 follows:

7 (820 ILCS 405/502 new)

8 Sec. 502. Labor dispute. With respect to any week beginning  
9 on or after the effective date of this amendatory Act of the  
10 94th General Assembly, an individual is not ineligible for  
11 benefits solely because his or her unemployment is due to a  
12 stoppage of work because of a labor dispute at the factory,  
13 establishment, or other premises at which he or she is or was  
14 last employed.

15 (820 ILCS 405/601) (from Ch. 48, par. 431)

16 Sec. 601. Voluntary leaving.

17 A. An individual shall be ineligible for benefits for the  
18 week in which he has left work voluntarily without good cause  
19 attributable to the employing unit and, thereafter, until he  
20 has become reemployed and has had earnings equal to or in  
21 excess of his current weekly benefit amount in each of four  
22 calendar weeks which are either for services in employment, or  
23 have been or will be reported pursuant to the provisions of the  
24 Federal Insurance Contributions Act by each employing unit for  
25 which such services are performed and which submits a statement  
26 certifying to that fact.

27 B. The provisions of this Section shall not apply to an  
28 individual who has left work voluntarily:

29 1. Because he is deemed physically unable to perform  
30 his work by a licensed and practicing physician, or has  
31 left work voluntarily upon the advice of a licensed and

1 practicing physician that assistance is necessary for the  
2 purpose of caring for his spouse, child, or parent who is  
3 in poor physical health and such assistance will not allow  
4 him to perform the usual and customary duties of his  
5 employment, and he has notified the employing unit of the  
6 reasons for his absence;

7 2. To accept other bona fide work and, after such  
8 acceptance, the individual is either not unemployed in each  
9 of 2 weeks, or earns remuneration for such work equal to at  
10 least twice his current weekly benefit amount;

11 3. In lieu of accepting a transfer to other work  
12 offered to the individual by the employing unit under the  
13 terms of a collective bargaining agreement or pursuant to  
14 an established employer plan, program, or policy, if the  
15 acceptance of such other work by the individual would  
16 require the separation from that work of another individual  
17 currently performing it;

18 4. Solely because of the sexual harassment of the  
19 individual by another employee. Sexual harassment means  
20 (1) unwelcome sexual advances, requests for sexual favors,  
21 sexually motivated physical contact or other conduct or  
22 communication which is made a term or condition of the  
23 employment or (2) the employee's submission to or rejection  
24 of such conduct or communication which is the basis for  
25 decisions affecting employment, or (3) when such conduct or  
26 communication has the purpose or effect of substantially  
27 interfering with an individual's work performance or  
28 creating an intimidating, hostile, or offensive working  
29 environment and the employer knows or should know of the  
30 existence of the harassment and fails to take timely and  
31 appropriate action;

32 5. Which he had accepted after separation from other  
33 work, and the work which he left voluntarily would be  
34 deemed unsuitable under the provisions of Section 603;

35 6. (a) Because the individual left work due to  
36 circumstances resulting from the individual being a victim

1 of domestic violence as defined in Section 103 of the  
2 Illinois Domestic Violence Act of 1986; and provided, such  
3 individual has made reasonable efforts to preserve the  
4 employment.

5 For the purposes of this paragraph 6, the individual  
6 shall be treated as being a victim of domestic violence if  
7 the individual provides the following:

8 (i) written notice to the employing unit of the  
9 reason for the individual's voluntarily leaving; and

10 (ii) to the Department provides:

11 (A) an order of protection or other  
12 documentation of equitable relief issued by a  
13 court of competent jurisdiction; or

14 (B) a police report or criminal charges  
15 documenting the domestic violence; or

16 (C) medical documentation of the domestic  
17 violence; or

18 (D) evidence of domestic violence from a  
19 counselor, social worker, health worker or  
20 domestic violence shelter worker.

21 (b) If the individual does not meet the provisions of  
22 subparagraph (a), the individual shall be held to have  
23 voluntarily terminated employment for the purpose of  
24 determining the individual's eligibility for benefits  
25 pursuant to subsection A.

26 (c) Notwithstanding any other provision to the  
27 contrary, evidence of domestic violence experienced by an  
28 individual, including the individual's statement and  
29 corroborating evidence, shall not be disclosed by the  
30 Department unless consent for disclosure is given by the  
31 individual.

32 C. With respect to any week beginning on or after the  
33 effective date of this amendatory Act of the 94th General  
34 Assembly, subsection A does not apply to an individual whose  
35 unemployment is due to a stoppage of work because of a labor  
36 dispute at the factory, establishment, or other premises at

1 which he or she is or was last employed.

2 (Source: P.A. 93-634, eff. 1-1-04.)

3 (820 ILCS 405/603) (from Ch. 48, par. 433)

4 Sec. 603. Refusal of work.

5 A. An individual shall be ineligible for benefits if he has  
6 failed, without good cause, either to apply for available,  
7 suitable work when so directed by the employment office or the  
8 Director, or to accept suitable work when offered him by the  
9 employment office or an employing unit, or to return to his  
10 customary self-employment (if any) when so directed by the  
11 employment office or the Director. Such ineligibility shall  
12 continue for the week in which such failure occurred and,  
13 thereafter, until he has become reemployed and has had earnings  
14 equal to or in excess of his current weekly benefit amount in  
15 each of four calendar weeks which are either for services in  
16 employment, or have been or will be reported pursuant to the  
17 provisions of the Federal Insurance Contributions Act by each  
18 employing unit for which such services are performed and which  
19 submits a statement certifying to that fact.

20 In determining whether or not any work is suitable for an  
21 individual, consideration shall be given to the degree of risk  
22 involved to his health, safety, and morals, his physical  
23 fitness and prior training, his experience and prior earnings,  
24 his length of unemployment and prospects for securing local  
25 work in his customary occupation, and the distance of the  
26 available work from his residence.

27 B. With respect to any week beginning on or after the  
28 effective date of this amendatory Act of the 94th General  
29 Assembly, subsection A does not apply to an individual whose  
30 unemployment is due to a stoppage of work because of a labor  
31 dispute at the factory, establishment, or other premises at  
32 which he or she is or was last employed.

33 C. Notwithstanding any other provisions of this Act, no  
34 work shall be deemed suitable and benefits shall not be denied  
35 under this Act to any otherwise eligible individual for

1 refusing to accept new work under any of the following  
2 conditions:

3 If the position offered is vacant due directly to a strike,  
4 lockout, or other labor dispute; if the wages, hours, or other  
5 conditions of the work offered are substantially less favorable  
6 to the individual than those prevailing for similar work in the  
7 locality; if, as a condition of being employed, the individual  
8 would be required to join a company union or to resign from or  
9 refrain from joining any bona fide labor organization; if the  
10 position offered is a transfer to other work offered to the  
11 individual by the employing unit under the terms of a  
12 collective bargaining agreement or pursuant to an established  
13 employer plan, program, or policy, when the acceptance of such  
14 other work by the individual would require the separation from  
15 that work of another individual currently performing it.

16 (Source: P.A. 82-22.)

17 (820 ILCS 405/604) (from Ch. 48, par. 434)

18 Sec. 604. Labor dispute. This Section applies only with  
19 respect to weeks beginning before the effective date of this  
20 amendatory Act of the 94th General Assembly.

21 An individual shall be ineligible for benefits for any week  
22 with respect to which it is found that his total or partial  
23 unemployment is due to a stoppage of work which exists because  
24 of a labor dispute at the factory, establishment, or other  
25 premises at which he is or was last employed. The term "labor  
26 dispute" does not include an individual's refusal to work  
27 because of his employer's failure to pay accrued earned wages  
28 within 10 working days from the date due, or to pay any other  
29 uncontested accrued obligation arising out of his employment  
30 within 10 working days from the date due.

31 For the purpose of disqualification under this Section the  
32 term "labor dispute" does not include a lockout by an employer  
33 for any week during which (1) the employer refuses to meet  
34 under reasonable conditions with the recognized or certified  
35 collective bargaining representative of the locked out

1 employees to discuss the issues giving rise to the lockout or  
2 (2) there is a final adjudication under the National Labor  
3 Relations Act that during the period of the lockout the  
4 employer has refused to bargain in good faith with the  
5 recognized or certified collective bargaining representative  
6 of the locked-out employees over issues giving rise to the  
7 lockout, or (3) the lockout violates the provisions of an  
8 existing collective bargaining agreement. An individual's  
9 total or partial unemployment resulting from any reduction in  
10 operations or reduction of force or layoff of employees by an  
11 employer made in the course of or in anticipation of collective  
12 bargaining negotiations between a labor organization and such  
13 employer, is not due to a stoppage of work which exists because  
14 of a labor dispute until the date of actual commencement of a  
15 strike or lockout.

16 This Section shall not apply if it is shown that (A) the  
17 individual is not participating in or financing or directly  
18 interested in the labor dispute which caused the stoppage of  
19 work and (B) he does not belong to a grade or class of workers  
20 of which immediately before the commencement of the stoppage  
21 there were members employed at the premises at which the  
22 stoppage occurs, any of whom are participating in or financing  
23 or directly interested in the dispute; provided, that a lockout  
24 by the employer or an individual's failure to cross a picket  
25 line at such factory, establishment, or other premises shall  
26 not, in itself, be deemed to be participation by him in the  
27 labor dispute. If in any case, separate branches of work which  
28 are commonly conducted as separate businesses in separate  
29 premises are conducted in separate departments of the same  
30 premises, each such department shall, for the purpose of this  
31 Section, be deemed to be a separate factory, establishment, or  
32 other premises.

33 Whenever any claim involves the provisions of this Section,  
34 the claims adjudicator referred to in Section 702 shall make a  
35 separate determination as to the eligibility or ineligibility  
36 of the claimant with respect to the provisions of this Section.

1 This separate determination may be appealed to the Director in  
2 the manner prescribed by Section 800.

3 (Source: P.A. 85-956.)