



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB2540

Introduced 12/13/2011, by Sen. Kyle McCarter

SYNOPSIS AS INTRODUCED:

820 ILCS 405/610	from Ch. 48, par. 440
820 ILCS 405/611	from Ch. 48, par. 441

Amends the Unemployment Insurance Act. Provides that payments made pursuant to a collective bargaining agreement to an individual as vacation pay, vacation pay allowance, pay in lieu of vacation, or as standby pay during a period of shutdown for the taking of inventory or for vacation purposes shall be deemed "wages." Makes changes concerning what constitutes "disqualifying income."

LRB097 14821 AEK 59850 b

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 changing Sections 610 and 611 as follows:

6 (820 ILCS 405/610) (from Ch. 48, par. 440)

7 Sec. 610. Vacation pay. A. Whenever an employer has
8 announced a period of shutdown for the taking of inventory or
9 for vacation purposes, or both, and (1) at the time of or
10 during such shutdown makes a payment or becomes obligated or
11 holds himself ready to make such payment to an individual as
12 vacation pay, or as vacation pay allowance, or as pay in lieu
13 of vacation, or as standby pay, or (2) has, pursuant to a
14 collective bargaining agreement, made a payment to an
15 individual as vacation pay, vacation pay allowance, pay in lieu
16 of vacation, or as standby pay with respect to a period, such
17 sum shall be deemed "wages" as defined in Section 234, and
18 shall be treated as provided in subsection C of this Section.

19 B. Whenever in connection with any separation or layoff of
20 an individual, his employer makes a payment or payments to him,
21 or becomes obligated and holds himself ready to make such
22 payment to him as, or in the nature of, vacation pay, or
23 vacation pay allowance, or as pay in lieu of vacation, and

1 within 10 calendar days after notification of the filing of his
2 claim, designates (by notice to the Director) the period to
3 which such payment shall be allocated (provided, that if such
4 designated period is extended by the employer, he may again
5 similarly designate an extended period, by giving notice
6 thereof not later than the beginning of the extension of such
7 period, with the same effect as if such period of extension
8 were included in the original designation), the amount of any
9 such payment, or obligation to make payment, shall be deemed
10 "wages" as defined in Section 234, and shall be treated as
11 provided in subsection C of this Section.

12 C. If the employer has not designated the period provided
13 for in subsection B within the prescribed time limits, the
14 wages referred to in subsection B shall not be attributed or be
15 deemed payable to such individual with respect to any week
16 after such separation or layoff. Of the wages described in
17 subsection A (whether or not the employer has designated the
18 period therein described), or of the wages described in
19 subsection B if the period therein described has been
20 designated by the employer as therein provided, a sum equal to
21 such individual's wages for a normal work day shall be
22 attributed to, or deemed to be payable to him with respect to,
23 the first and each subsequent work day except paid holidays in
24 such period until such amount so paid or owing is exhausted. If
25 an employee is entitled to receive and receives holiday pay for
26 any work day in such designated period, such pay shall be

1 deemed "wages" and the period herein designated shall be
2 extended by such paid holiday. Any individual receiving or
3 entitled to receive wages as provided in this Section shall be
4 ineligible for benefits for any week in which the sums, so
5 designated or attributed to such normal work days, equal or
6 exceed his weekly benefit amount. If no amount is so paid or
7 owing, or if in any week the amount so paid or owing is
8 insufficient to attribute any sum as wages, or if the amount so
9 designated or attributed as wages is less than such
10 individual's weekly benefit amount, he shall be deemed
11 "unemployed" as defined in Section 239.

12 (Source: P.A. 81-1521.)

13 (820 ILCS 405/611) (from Ch. 48, par. 441)

14 Sec. 611. Retirement, severance pay, and payments in lieu
15 of wages.

16 A. For the purposes of this Section "disqualifying income"
17 means:

18 1. the ~~The~~ entire amount which an individual has
19 received or will receive with respect to a week in the form
20 of a retirement payment (a) from an individual or
21 organization (i) for which he performed services during his
22 base period or which is liable for benefit charges or
23 payments in lieu of contributions as a result of the
24 payment of benefits to such individual and (ii) which pays
25 all of the cost of such retirement payment, or (b) from a

1 trust, annuity or insurance fund or under an annuity or
2 insurance contract, to or under which an individual or
3 organization for which he performed services during his
4 base period or which is liable for benefit charges or
5 payments in lieu of contributions as a result of the
6 payment of benefits to such individual pays or has paid all
7 of the premiums or contributions; ~~and~~

8 2. one-half ~~One-half~~ the amount which an individual has
9 received or will receive with respect to a week in the form
10 of a retirement payment (a) from an individual or
11 organization (i) for which he performed services during his
12 base period or which is liable for benefit charges or
13 payments in lieu of contributions as a result of the
14 payment of benefits to such individual and (ii) which pays
15 some, but not all, of the cost of such retirement payment,
16 or (b) from a trust, annuity or insurance fund (including
17 primary social security old age and disability retirement
18 benefits, including those based on self-employment) or
19 under an annuity or insurance contract, to or under which
20 an individual or organization for which he performed
21 services during his base period or which is liable for
22 benefit charges or payments in lieu of contributions as a
23 result of the payment of benefits to such individual pays
24 or has paid some, but not all, of the premiums or
25 contributions; and -

26 3. the entire amount which an individual has received

1 or will receive with respect to a week in the form of a
2 severance payment or payment in lieu of wages from the
3 employing unit, unless the employing unit waives the
4 application of this subsection in writing. If payment is
5 made by lump sum by the employing unit, a sum equal to
6 one-fifth of such individual's weekly benefit amount shall
7 be attributed to, or deemed to be payable to him or her
8 with respect to, the first and each subsequent work day
9 following the individual's separation from the employing
10 unit and the date on which the payment is made until such
11 amount so paid is exhausted. Notwithstanding paragraph 1
12 and 2 above, the entire amount which an individual has
13 received or will receive, with respect to any week which
14 begins after March 31, 1980, of any governmental or other
15 pension, retirement, or retired pay, annuity or any other
16 similar periodic payment which is based on any previous
17 work of such individual during his base period or which is
18 liable for benefit charges or payments in lieu of
19 contributions as a result of the payment of benefits to
20 such individual. This paragraph shall be in effect only if
21 it is required as a condition for full tax credit against
22 the tax imposed by the Federal Unemployment Tax Act.

23 B. Whenever an individual has received or will receive a
24 retirement payment for a month, an amount shall be deemed to
25 have been paid him for each day equal to one-thirtieth of such
26 retirement payment. If the retirement payment is for a

1 half-month, an amount shall be deemed to have been paid the
2 individual for each day equal to one-fifteenth of such
3 retirement payment. If the retirement payment is for any other
4 period, an amount shall be deemed to have been paid the
5 individual for each day in such period equal to the retirement
6 payment divided by the number of days in the period.

7 C. An individual shall be ineligible for benefits for any
8 week with respect to which his disqualifying income equals or
9 exceeds his weekly benefit amount. If such disqualifying income
10 with respect to a week totals less than the benefits for which
11 he would otherwise be eligible under this Act, he shall be
12 paid, with respect to such week, benefits reduced by the amount
13 of such disqualifying income.

14 D. To assure full tax credit to the employers of this State
15 against the tax imposed by the Federal Unemployment Tax Act,
16 the Director shall take any action as may be necessary in the
17 administration of paragraph 3 of subsection A of this Section
18 to insure that the application of its provisions conform to the
19 requirements of such Federal Act as interpreted by the United
20 States Secretary of Labor or other appropriate Federal agency.

21 (Source: P.A. 86-3.)