

Legislative revisions of unemployment insurance in 1980

Many States adopted pension offset provisions but made few other changes; Alaska and Pennsylvania tightened qualifying requirements and disqualification provisions and increased the tax rates

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In September 1980, Congress made amendments to Federal unemployment insurance law requirements which modified the pension deduction provision; specified circumstances in which extended benefits are not payable on interstate claims; and increased the service time necessary for former members of the Armed Forces to establish entitlement to unemployment compensation.

Under an amendment to the Federal Unemployment Tax Act, the pension deduction provision was liberalized. It had required States to reduce an individual's weekly benefits by the weekly prorated amount of any pension, annuity, or similar payment that he or she received for claims filed on or after April 6, 1980. The amendment (effective September 26, 1980) requires States to offset a pension only if such pension, retirement or retired pay, annuity, or similar periodic payment is under a plan maintained (or contributed to) by a base period or chargeable employer. This law also permitted States to take into consideration the amount of the individual's pension contributions when reducing benefits.

The Federal State Extended Unemployment Compensation Act was amended to prohibit payment of extended benefits pursuant to an interstate claim if it was filed in an agent-State where an extended benefit period was not in effect.

The U.S. civil code now requires a service member to have 365 days or more of active service in order to be

eligible for unemployment compensation instead of the former 90-day period. This amendment applies with respect to any new claims filed on or after October 1, 1980.

In general, State legislatures took very little action this year, except for Alaska and Pennsylvania where extensive changes were made. Twenty States adopted conforming pension reduction provisions.¹ Weekly benefit amounts changed in seven States and five States amended their qualifying wage requirements. Disqualification provisions changed in eight States with most States adopting requalifying work requirements.

Financing provisions were amended in several States and most raised the maximum tax rates or made provision for extra assessments to strengthen their trust funds, or did both.

The following is a summary of some significant changes in State unemployment insurance laws during 1980.

Alabama

Disqualification. The penalty for fraud was increased to a fine of not less than \$50 or more than \$500 (formerly \$250) or imprisonment for no longer than 12 months (formerly 3 months), or both. However, prosecution must begin within 3 years from date of offense.

Alaska

Benefits. The qualifying wages were increased from base period wages of \$750 with \$100 outside high quarter to base period wages of \$1,000 in at least two quarters. The maximum weekly benefit amount rose from \$90 to \$150 and the minimum from \$18 to \$34. A claimant may also receive \$24 a

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week for each dependent, not to exceed \$72. Benefit duration changed from 14 to 28 weeks to 16 to 26 weeks depending on the claimant's earnings ratio. For purposes of computing the weekly benefit amount, individuals who were paid 90 percent or more of their base period wages in only one calendar quarter shall have their base period computed as wages paid in the quarters of their base period, other than the one in which the greatest amount of wages were paid, multiplied by 10. However, those who were paid less than 90 percent of wages in one calendar quarter use all wages paid to them during the base period.

Partial benefits will be payable to an individual in an amount equal to the weekly benefit amount, less 75 percent of remuneration that is in excess of \$50. Formerly, the amount disregarded was that in excess of \$10 or one-half of the weekly benefit amount. An individual is considered unemployed in a week in which he performs no services for remuneration or in a week of less than full-time work, if the salary is not more than 1-1/3 times his weekly benefit amount (excluding dependent's allowances) plus \$50 (formerly \$10 or 1-1/2 times weekly benefit amount, whichever was greater).

Disqualification. In addition to the current 6 weeks disqualification for voluntary quit, discharge for misconduct, and refusal of suitable work, an individual will have his maximum potential benefits reduced. This will be by the lesser of an amount equal to three times his weekly benefit amount (excluding dependents' allowances) or the amount of unpaid benefits to which he is entitled. However, the disqualification may be removed if an individual earns at least eight times the weekly benefit amount. A person is disqualified for any week of unemployment during which he or she attends an established school providing academic instruction of 10 credit hours or more per week. This disqualification will be in effect until he or she is no longer attending classes if the period of nonattendance lasts 60 days or more. Alaska also adopted a pension reduction provision. The disqualification for misrepresentation was changed to continue for not less than 6 nor more than 52 weeks (formerly 26) in all cases. The penalties for fraud were changed to a class B misdemeanor for an individual, a class A misdemeanor for an employing unit.

Financing. The taxable wage base for 1981 and 1982 will be determined as 60 percent of the average annual wage computed to the nearest multiple of \$100, and for 1983 and thereafter, 75 percent. The standard tax rate of 2.7 percent was deleted and employers not eligible for a computed rate will pay one equal to that of the average industry. An employer's contribution rate may not be less than 1.0 or more than 6.5 percent. Formerly, the range was 0.6 to 5.5 percent. Each employer's rate of contribution will be 82 percent of the average benefit cost, multiplied by the employer's experience factor.

A further solvency contribution rate was added which may not be less than zero or more than 1.1 percent, although the solvency rate may not change more than 0.3 percent from year to year. The solvency rate is payable whenever the reserve rate (the ratio of the amount in the fund available for benefits to contributing employer payrolls) falls below 3.2 percent. Effective January 1, 1981, each employee will pay a contribution rate equal to 18 percent of the average benefit cost rate, rounded to the nearest 0.1 percent. Employee rates may not be less than 0.5 or more than 1.0 percent.

Administration. The period of time for appeal of an initial determination or an appeal tribunal decision was extended from 10 to 15 days.

Arizona

Benefits. The maximum weekly benefit was increased from \$90 to \$95.

Colorado

Coverage. Coverage was extended for unemployment insurance purposes to employees of church-related schools.

Connecticut

Benefits. The weekly dependency allowance was raised from \$5 to \$10 per dependent for up to five dependents.

Disqualification. The disqualification for refusal of suitable work was changed from the week of refusal and the next 4 weeks to the duration of unemployment, and until the claimant earns at least six times his weekly benefit amount. Also, a pension offset provision was adopted which conforms to the Federal law.

Administration. The time limit for filing an appeal from an initial determination was extended from 14 to 21 days and from 15 to 22 days for a referee's decision.

Delaware

Disqualification. It adopted a pension offset provision which conforms to the Federal law.

District of Columbia

Disqualification. It adopted a pension offset provision which conforms to the Federal law.

Florida

Benefits. The maximum weekly benefit amount was increased from \$95 to \$105.

Financing. The law provides that, if an employee is terminated during a probationary period (up to 60 days), any benefits received as a result of employment during this period will be noncharged (seasonal employers are excluded).

Coverage. The exclusion of aliens performing agricultural labor was extended to January 1, 1982.

Disqualification. The law was amended to provide that in addition to benefits under the Social Security Act or a disability program, any other similar periodic payment based on previous work of the individual will be considered as retirement income. This will be deductible from the weekly benefit amount.

Georgia

Financing. An employer's experience rating account shall not be charged for benefits paid to an individual working part time if the employer provided base period part-time employment and continues to provide part-time work to the same extent as in the base period. The employer must also be an interested party because of the employment loss and furnish timely information to the agency.

Disqualification. The State adopted a pension reduction provision which conforms to the Federal law.

Hawaii

Disqualification. It adopted a pension reduction provision which conforms to the Federal law.

Idaho

Benefits. High-quarter wages needed to qualify for benefits were increased from \$415.01 to \$910.01.

Disqualification. The State adopted a pension reduction provision which conforms to the Federal law.

Coverage. The exclusion of aliens performing agricultural labor was extended to January 1, 1982.

Administration. The second-level appeal body was changed from a board to a commission. The period of time in which a nonfraud overpayment is considered uncollectible was increased from 3 to 5 years.

Illinois

Benefits. The minimum weekly benefit amount was changed from \$15 to 15 percent of the statewide average weekly wage. Earnings disregarded in the computation of partial benefits changed from wages in excess of \$7 to those in excess of 50 percent of his weekly benefit amount.

Disqualification. The definition of "voluntary leaving" was amended to provide that such quit must be attributable to the employer except in the following cases: (1) quitting because of illness, or illness of a child, spouse or parent, (2) to accept another bona fide job or to take a job which lasts 2 weeks or longer and pays at least two times the weekly benefit amount, (3) in lieu of bumping another employee, (4) because of sexual harassment on the job of which employer had knowledge, and (5) quitting after accepting a job considered to be unsuitable under a specified section of Illinois law. The availability for work requirement was tightened to provide that an employer must only give a reason, or reasons, why an employee may not be available for work or actively seeking work. Also, the State adopted a pension offset provision which conforms to the Federal law.

Financing. Relief from charges to the employer's account is provided where the claimant voluntarily quit, took another job, and held it long enough to earn six times the weekly benefit amount and then was separated from the new work.

Administration. An "equity and good conscience" exemption in nonfault benefit overpayment recoupment is provided. When amounts are recouped by offset against current benefits, the amount of offset may not be allowed to exceed 25 percent (previously 50 percent) of weekly benefit amount. The time period for appeals from determinations of claims adjudicators and referees has been extended from 14 to 30 days.

Indiana

Benefits. The maximum weekly benefit amount was increased from \$74 to \$84 for an individual with no dependents; from \$87 to \$99 with one dependent; from \$99 to \$113 with two dependents; from \$112 to \$128 with three dependents; and from \$124 to \$141 with four dependents or more. Also, the minimum weekly benefit amount went from \$35 to \$40. Qualifying requirements were changed from wages of at least \$300 in the last two quarters of the base period and total wages of \$500 in the base period to at least \$900 in the last two quarters of the base period and total wages of at least \$1,500 throughout the four quarters of the base period.

Disqualification. An individual will be considered unavailable for work with respect to any week in which he or she is sus-

pending for misconduct in connection with the work. Formerly, the determination of unavailability could not exceed the week of suspension and the 5 calendar weeks immediately following. Previous conditions for disqualification for voluntary quit, discharge for misconduct, and refusal of suitable work were: the week of occurrence and until the claimant earns at least eight times the weekly benefit amount. The week of occurrence rule remains in effect, but now the claimant must earn remuneration in employment equal to or exceeding his weekly benefit amount in each of the 8 weeks. Indiana added to the disqualification for refusal of suitable work that it will apply whenever an individual fails to accept suitable work at any time after he or she is notified of a separation. Labor dispute disqualification was amended to apply when someone's unemployment is caused by a labor dispute (previously, a stoppage of work that exists because of a labor dispute) at a factory, establishment, or other premises at which the person was last employed. A claimant may not be disqualified for voluntary leaving if he leaves prior work for better employment and works at the new job for not less than 10 weeks (formerly 8); or if employed by two persons but leaves one employer and remains employed by the second for at least 10 weeks (previously 8). This would be subsequent to leaving the first employer. "Gross misconduct" was redefined as including only a felony or misdemeanor committed in connection with work. In the past, the law included explicit examples of the kind of behavior considered gross misconduct.

Kansas

Disqualification. The pension offset provision conforming to the Federal requirement was adopted. This State repealed the provision canceling all wage credits earned prior to the date on which felony charges are brought against an individual for job-related gross misconduct.

Kentucky

Disqualification. The "voluntary leaving" language was tightened to restrict good cause to that attributable to the employer. The disqualification for refusal of suitable work and discharge for misconduct changed from a variable disqualification to one of duration. The special disqualification for the duration of unemployment of a person who quits work to marry, attend school, or become self-employed was repealed. Kentucky adopted a pension reduction provision which conforms to Federal law. The time during which recovery of overpayments will be pursued was increased from 3 to 5 years. However, if the payments were obtained through fraud, no future benefits may be paid to that individual for 10 years.

Financing. The State added a new schedule of rates—ranging from 1.3 to 6.7 percent—to go into effect when the fund solvency factor is less than 0.4 or the trust fund is below \$100 million. No employer's rate shall be less than 2.7 percent provided the fund solvency factor equals 0.4, nor will it be less than 3.0 percent if the factor is less than 0.4 or the trust fund is below \$100 million.

Maryland

Benefits. The maximum weekly benefit amount increased from \$106 to \$120 and the minimum went up from \$10 to \$25. The qualifying requirement was raised from high-quarter wages of \$192.01 to \$576.01.

Disqualification. The voluntary leaving disqualification was amended to provide that it is not good cause to voluntarily

leave work to become self-employed, accompany or join a spouse, or to attend an educational institution. The refusal of suitable work disqualification was amended to apply for the week of refusal and will continue for from 4 to 9 weeks (formerly 1 to 10). The State adopted the pension reduction provision conforming to a Federal requirement.

Financing. The maximum tax rate moved up from 5.0 to 6.0 percent and the adjustment that could be made to an employer's tax was limited (beginning July 1, 1980) to an increase of 1.5 percent. The fund balance level at which the least favorable tax schedule would become effective (based on ratio between fund balance and total taxable wages) changed from 3.5 to 3.6 percent. Also, the percentage by which an employer's rate would be increased under this schedule was reduced from 3.0 to 2.7 percent.

Administration. The time period for filing with the Board of Appeals increased from 7 to 15 days.

Massachusetts

Disqualification. It adopted a pension reduction provision which conforms to the Federal law.

Michigan

Disqualification. It adopted a pension reduction provision which conforms to the Federal law.

Minnesota

Disqualification. The voluntary leaving disqualification excludes separation from employment because of its temporary nature or inability to pass a test or to meet performance standards necessary for continuation of employment.

Financing. A reimbursing employer will not be charged for benefits paid to a part-time employee, if the employer continues to provide part-time work equal to at least 90 percent of the part-time employment provided in the base period, and is an interested party because of a job loss of other employment. Also, the law provides for noncharging both contributing and reimbursing employers for unemployment directly caused by a major disaster (if the individual would have been eligible for Disaster Unemployment Assistance but for receipt of unemployment benefits).

Mississippi

Financing. Benefits may be noncharged to an employer's experience rating record if an individual was terminated during a probationary period.

Missouri

Financing. Benefits based on part-time work may be noncharged if the employer continues to employ individuals on a part-time basis. The maximum contribution rate payable by negative account employers was reduced from 6.0 to 4.4 percent.

Nebraska

Disqualification. A modified pension offset provision was adopted which applies to base period or chargeable employers. The provision which disqualified an individual who was discharged from military service or released from active duty after 20 years or more of service, and who has not been employed since discharge or release, was deleted.

New Jersey

Disqualification. The State adopted a pension offset provision which conforms to the Federal law.

Ohio

Disqualification. The voluntary leaving disqualification was amended to provide for removal of disqualification if an individual voluntarily quits to accept a recall from a prior employer, or to accept other work. He or she must begin this new job within 7 calendar days, plus earn wages equal to one and one-half times his or her average weekly wage or \$180 in 3 weeks of such work. In addition, a pension offset provision which conforms to the Federal law was adopted.

Oklahoma

Disqualification. A claimant who makes a false misrepresentation to obtain benefits shall be guilty of a misdemeanor and fined \$50, but not more than \$500.

Administration. a waiver of nonfraud overpayments for equity and good conscience was deleted.

Pennsylvania

Coverage. The exclusion from coverage of aliens performing agricultural labor was extended to January 1, 1982.

Benefits. The provision which allowed a claimant with insufficient wage credits to elect to have the base period consist of the four completed calendar quarters preceding the first day of the benefit year was deleted. The step-down provision was reduced from four to three lower levels on the benefit schedule. The duration of benefits was changed from a uniform 30 weeks to a variable period as follows: an individual earning \$50 or more per week for 18 to 23 weeks will collect a maximum of 26 weeks of benefits and someone earning \$50 or more for 24 weeks is eligible for 30 weeks of benefits. The weekly minimum was increased from \$13 to \$35 with wages of \$800 (formerly \$120) in one quarter, and total base period wages of \$1,230 (formerly \$440). The qualifying requirement—that a person with base year wages of less than \$600 must have earned such wages during 18 weeks within his base year—was deleted. A 1-week waiting period was reinstated and is reimbursable after the claimant has been paid benefits equal to four times his weekly benefit amount.

Disqualification. An individual will be disqualified for any week in which he fails to accept an offer of suitable full-time work in order to pursue seasonal or part-time work. However, one will not be disqualified for refusal of suitable work when the offer is made by his employer. Also, he is not required to accept the offer pursuant to terms of a union contract or agreement, or an established employer plan, program, or policy. An eligible claimant shall not be denied unemployment benefits for any week when he is exercising the option of accepting a layoff from an available position (pursuant to a union contract or an established employer plan, program, or policy). Nor will he be denied for voluntarily leaving in lieu of exercising this option. The disqualification applicable to a person who leaves work to accompany a spouse to a new locality or because of a marital, filial, or other domestic circumstance was repealed. The State adopted a pension offset provision which conforms to the Federal law; and any overpayment which occurs as a direct result of a retroactive implementation will be considered nonfault and nonrecoupable and thus, will not be collected.

Financing. The taxable wage base will increase from \$6,000 to \$6,300 for 1980 and 1981, and to \$6,600 for 1982 and thereafter. The maximum contribution rate was raised from 4.0 to 4.75 percent for 1980 and 1981, and to 4.9 percent for 1982 and thereafter. Also, the rate of contribution for newly liable construction employers (until they become experience rated) was upped from 4.0 to 6.5 percent for 1980 and 1981, and 6.6 percent for 1982 and thereafter. The rate of contribution for other newly liable employers was increased from 2.0 to 3.5 percent until they become experience rated. The State adjustment factor for 1980 and 1981 will be 1.75 percent and for 1982 and thereafter, recomputed annually but not to exceed 1.9 percent (formerly 1.7). If the adjustment factor for 1980 and for each year thereafter exceeds 1.7 percent (previously 1.0), such excess over 1.75 percent for 1980 and 1981 and 1.9 percent for 1982 shall be added to the computed factor. Employers whose total benefit costs exceeded their total contributions (negative reserve accounts), and who elected to write off the negative amount and have their reserve accounts adjusted, shall pay contributions for 3 years. These will be at a rate of 4.75 percent (was 4.0) for 1980 and 1981 and 4.9 percent for 1982 and thereafter. Employers who elected in 1978, 1979, or 1980 to have their reserve accounts adjusted will be required to pay contributions of 4.75 percent for 1980 and 1981 and 4.9 percent for 1982 or after. An additional contribution rate was added (excluding new employers) which entitles certain employers with a positive reserve account balance to a reduction in their contribution rate (0.1 to 0.4 percent); and an increase with a negative reserve account balance (0.1 to 0.7 percent), depending on the relationship of the employer's reserve account balance to his or her average annual payroll. Also, an additional contribution was added for employers (except newly liable employers) equal to 1.0 percent of their taxable wages. However, this surcharge can be reduced by up to 0.9 percent if the additional repayment procedure under the Federal Unemployment Tax Act is in effect.

Rhode Island

Coverage. Services performed by an individual under the age of 22 enrolled in a full-time work-study program at a nonprofit or public educational institution (that maintains a faculty and an organized body of students) is excluded from coverage. That is, unless the services are performed in a program established on behalf of the employer.

Disqualification. Voluntarily leaving work with good cause shall include sexual harassment against members of either sex.

South Carolina

Disqualification. It adopted a pension offset provision which conforms to the Federal law.

South Dakota

Disqualification. It adopted a pension offset provision which conforms to the Federal law.

Tennessee

Benefits. The maximum weekly benefit amount was increased from \$100 to \$110 and the minimum from \$14 to \$20. Also, the computation of the weekly benefit amount changed from a

weighted schedule of 1/26 to 1/30 to 1/26 to 1/31.

Disqualification. The requalifying earnings requirement for voluntary leaving increased from five to ten times the weekly benefit amount.

Financing. Two new rate schedules were added to the two schedules already provided. The highest rates, ranging from 0.75 to 4.4 percent, will be in effect when the balance in the trust fund is under \$200 million. The lowest rates, 0.25 to 3.9 percent, will be in effect when the balance is over \$350 million. Formerly, the maximum tax rate was 4.0 percent and the minimum rate 0.3 percent, and the schedule in effect for the year (1 of 2 schedules) depended on whether the balance in the trust fund was below a minimum of \$165 million or exceeded a maximum of \$250 million.

Vermont

Disqualification. It adopted a pension offset provision which conforms to the Federal law.

Virginia

Coverage. The exclusion of aliens performing agricultural labor was extended to January 1, 1982.

Disqualification. Benefits will be denied to nonprofessional school employees between 2 successive academic years if they performed services in the first of the terms or years. And they must have a contract to perform such services in the second academic year or term.

Financing. The maximum contribution rate was increased from 3.2 to 4.5 percent and that for delinquent employers, from 3.2 to 4.5 percent. The rate at which newly covered employers will be taxed advanced from 1.0 to 2.0 percent. A 100 percent emergency adjustment factor was added, which will trigger on at the end of any calendar month, if the trust fund balance falls below \$75 million and the Governor determines the adjustment is necessary. This factor applies to all existing tax rates, and it will remain in effect until the trust fund balance equals or exceeds \$125 million. The general assembly determines the need for continuing, modifying, or deleting the factor.

Administration. The time period for filing an appeal from an initial determination or an appeal tribunal's decision was extended from 14 to 21 days.

Washington

Benefits. The minimum weekly benefit amount will be determined as 15 percent of the average weekly wage for the preceding calendar year.

Disqualification. A pension offset provision which conforms to the Federal law was adopted. Benefits will be denied to school employees during an established vacation or holiday recess, if they performed such services before the vacation or holiday and have a reasonable assurance of performing services afterwards. The between-terms denial will also apply to employees of educational service agencies. □

— FOOTNOTE —

¹ Alaska, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Kansas, Kentucky, Maryland, Massachusetts, Michigan, Nebraska,

New Jersey, Ohio, Pennsylvania, South Carolina, South Dakota, Vermont, and Washington.