AN ACT

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY - CONTRIBUTIONS

Introduced By: Representatives Williams, Almeida, Guthrie, Blazejewski, and Ajello

Date Introduced: February 27, 2013

Referred To: House Labor

(Labor & Training)

It is enacted by the General Assembly as follows:

SECTION 1. Sections 28-43-3 and 28-43-30 of the General Laws in Chapter 28-43 entitled "Employment Security - Contributions" are hereby amended to read as follows:

28-43-3. Employer's accounts -- Credits and charges. -- Subsequent to the establishment of a separate employer's account for each employer subject to chapters 42 -- 44 of this title as set forth in section 28-43-1(4), the credits and charges to each employer's account, exclusive of the state of Rhode Island, its political subdivisions, and their instrumentalities, shall be determined as follows:

(1) Credits to each employer's account:

(i) After the September 30, 1958 computation date all contributions required under section 28-43-8 and paid by each employer.

(ii) All surcharges required and paid under section 28-43-4.

(2) Charges to each employer's account:

(i) Refunds of overpayments under section 28-43-13, as of the date refunded;

(ii) For benefit years beginning subsequent to September 30, 1993, an amount equal to the benefits provided in sections 28-44-6(a) and (b), 28-44-7, and 28-44-8, and paid to each individual with respect to a benefit year, as of the date paid. Those benefits shall be charged to the account of the most recent base period employer, as defined in section 28-43-1(7); provided, that if a claimant works for two (2) or more employers concurrently, either full-time or part-time, and
becomes unemployed on the same day from more than one employer, any benefits paid as a result of the unemployment shall be charged to the employers' accounts proportionately based upon the ratio of base period wages paid by each employer to the total base period wages paid by the concurrent employers from whom the claimant became separated from employment. No charge for benefits paid under section 28-44-7 shall be made against the account of any employer who shows to the satisfaction of the director that he or she has continued to employ the individual during the weeks of his or her claim to the same extent that he or she had employed him or her during that individual's base period, and those benefits, if not chargeable to the most recent base period employer, shall be charged to the balancing account.

(iii) If any base period employer, whether or not he or she was the most recent, shows to the satisfaction of the director that the individual who is in receipt of benefits became separated from his or her last employment with that employer for reasons which did result or would have resulted in a disqualification under section 28-44-17 or 28-44-18 had that base period employer been his or her most recent, those benefits shall be charged to the balancing account.

(iv) The entire amount charged to the employer's account under section 28-43-9 relating to the balancing rate.

(v) Whenever the provisions in this section specify that an employer's account shall not be charged, that non-charging shall be limited to benefits paid based on service with an employer required to pay contributions under the provisions of chapters 42 -- 44 of this title.

(vi) An amount equal to the benefits provided in section 28-44-62 and paid to each individual with respect to a benefit year as of the date paid minus the proportionate share of those benefits for which the state has been or will be reimbursed by the federal government. The federal share of any payments shall be charged to the balancing account and federal reimbursements shall be credited to the balancing account.

(vii) Whenever any benefits are paid for benefit years beginning subsequent to July 7, 1996 to an individual unemployed as a result of physical damage to the real property at the employer's usual place of business caused by severe weather conditions, including, but not limited to, hurricanes, snowstorms, ice storms or flooding, or fire except where caused by the employer, those benefits shall be charged to the balancing account.

(viii) An employer's account shall not be relieved of charges relating to any benefits payments made if the director establishes on or after October 1, 2013 that the payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the department for information relating to the claim for unemployment benefits that was subsequently overpaid.
28-43-30. Reimbursement payments -- Nonprofit organizations and governmental entities. — (a) At the end of each month, the director shall bill each nonprofit organization or group of those organizations or governmental entity which has elected to make payment in lieu of contributions, for an amount equal to the full amount of regular benefits, plus the full amount of extended benefits paid during that month, less any federal payments to the state under section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, that is attributable to service in the employ of that organization or entity; provided, that for weeks of unemployment beginning on or after January 1, 1979, those governmental entities shall be responsible for reimbursing the employment security fund for the full amount of extended benefits paid that is attributable to service in the employ of those entities. Each nonprofit organization or group of those organizations or governmental entity which has elected to make payment in lieu of contributions, shall also be liable to reimburse the employment security fund for any benefits payments made if the director establishes on or after October 1, 2013 that the payment was made because the employer, or an agent of the employer, was at fault for failing to respond timely or adequately to the request of the department for information relating to the claim for unemployment benefits that was subsequently overpaid.

(b) The amount computed for the state shall be reported monthly to the general treasurer and shall then be paid from the general fund of the state upon approval thereof in accordance with the law in effect, except that to the extent that benefits are paid by the state from special administrative funds, the payment by the state into the employment security fund shall be made from special funds.

(c) The amount so computed for political subdivisions, instrumentalities, and all other governmental entities shall be reported monthly to the financial authorities who shall pay the required amount into the employment security fund in accordance with regulations as prescribed.

(d) Payment of any bill rendered under subsection (a) of this section shall be made not later than thirty (30) days after that bill was mailed to the last known address of the nonprofit organization or governmental entity, or was otherwise delivered to it. The bill rendered to an employer shall constitute the director's determination and shall be binding upon the employer unless an appeal is duly filed in writing to the board of review in accordance with the provisions of section 28-43-14, within fifteen (15) days of the mailing or other delivery.

(e) Payments made by any nonprofit organization or governmental entity under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization.

(f) With respect to nonprofit organizations or groups of organizations and governmental
entities, past due payments of amounts in lieu of contributions shall be subject to the same
interest and penalties that apply to delinquent contributions under sections 28-42-65 and 28-43-
15.

(g) If any nonprofit organization or governmental entity is delinquent in making
payments in lieu of contributions as required under the provisions of this section, the director may
terminate that organization's or entity's election to make payments in lieu of contributions as of
the beginning of the next taxable year and that termination shall be effective for that and the next
taxable year.

SECTION 2. This act shall take effect on October 1, 2013.
This act would require that the accounts of employers be charged when improper payments are made due to the failure of the employer to respond timely or adequately to requests by the department for information relating to a claim for unemployment benefits that was subsequently overpaid.

This act would take effect on October 1, 2013.