

SS#2 SCS HCS HB 1456 -- EMPLOYMENT SECURITY

This bill changes the laws regarding unemployment compensation. In its main provisions, the bill:

(1) Allows the owner and operator of a motor vehicle which is leased or contracted with a driver to a for-hire common or contract motor vehicle carrier to operate under a certificate issued by the Department of Transportation;

(2) Specifies that for any calendar year after 2008, the state taxable wage base will be determined by the average balance of the four preceding quarters less principle, interest, and certain administrative expenses. The maximum taxable wage base will be increased from \$12,000 to \$12,500 in calendar year 2008;

(3) Specifies that the maximum weekly benefit amount for initial unemployment compensation claims filed during calendar years 2006 and 2007 will be 4% of the wages paid to the worker during the highest quarter of the worker's base period;

(4) Specifies that the maximum weekly benefit amount for initial unemployment compensation claims filed during or after calendar year 2008 will be 4% of the average quarterly wages paid to the worker during the two highest quarters of the worker's base period;

(5) Specifies that the maximum weekly benefit amount for initial claims filed during calendar year 2006 will not exceed \$270; not exceed \$280 in calendar year 2007; and not exceed \$320 in calendar year 2008;

(6) Requires the directors of the Division of Employment Security within the Department of Labor and Industrial Relations and the Division of Workforce Development within the Department of Economic Development to submit to the Governor, Speaker of the House of Representatives, and President Pro Tem of the Senate by October 15, 2006, a report on recommendations for improving work search verification and claimant re-employment activities. The recommendations will include how to best utilize the greathires.org web site and reduce the average duration of unemployment compensation claims. For each succeeding year, the report will be due by December 31;

(7) Specifies that the test for alcohol or controlled substances be included as evidence in the administrative record if the test was conducted by a laboratory certified by the United States Department of Health and Human Services or another certification organization whose minimum standards meet the same standards;

(8) Expands the ways by which an employer may notify employees that a positive test for alcohol or controlled substances may result in the suspension or termination of employment;

(9) Specifies that an employer may require a pre-employment test for alcohol or controlled substances as a condition of employment and the results of the test and any future tests will be admissible if the employer's policy clearly states that an employee may be subject to random, pre-employment, reasonable suspicion, or post-accident testing;

(10) Specifies that all methods of testing, criteria for testing, chain of custody for samples or specimens, and due process for employee notification procedures do not apply to a claimant subject to the provisions of any collective bargaining agreement if the minimum standards of the conducting laboratory meet or exceed the minimum standards of the United States Department of Health and Human Services;

(11) Requires that a confirmation test include a split specimen test to determine employee misconduct;

(12) Specifies that when applying the provisions of the laws regarding employment security, it is the intent of the General Assembly to reject and abrogate previous case law interpretations of "misconduct connected with work" requiring a finding of evidence of impaired work performance;

(13) Specifies that an order to apply for or accept available suitable work may be issued by a deputy of the Division of Employment Security or the designated staff of an employment office;

(14) Requires a claimant who is disqualified from receiving unemployment benefits on a second or subsequent occasion within the base period or within a subsequent base period to earn wages at least six times the claimant's weekly benefit amount for each disqualification;

(15) Specifies that absenteeism or tardiness alone may constitute a rebuttable presumption of misconduct if the discharge was the result of the employer's attendance policy and the employee was aware of the policy prior to being absent or tardy upon which the discharge was based;

(16) Requires the division to cross-check unemployment compensation applicants and recipients with the federal Social Security Administration's data at least weekly;

(17) Specifies that an employer may be assessed an amount solely for the repayment of interest due on federal advances to the Unemployment Compensation Trust Fund;

(18) Assesses an employer a credit instrument and financing agreement repayment surcharge calculated as a percentage of the total statewide contributions collected during the previous calendar year;

(19) Specifies that each employer's proportionate share will be the calculated percentage of the total statewide contributions collected during the previous calendar year multiplied by the employer's contribution due for each filing period during the preceding calendar year;

(20) Allows the division to use the services of collection agencies to collect any debts;

(21) Allows any party to a case the right to enter a motion to reconsider a determination by the appeals tribunal;

(22) Increases the maximum maturity time period of a credit instrument or a financial agreement offered by the Board of Fund Financing from three years to 10 years after issuance;

(23) Requires the division to recover overpayments of benefits through billings, setoffs against state and federal income tax refunds, and intercepts of lottery winnings; and

(24) Specifies that shared-work benefits may not be denied in any week containing a holiday for which the holiday earnings are paid by the employer unless the shared-work benefits are for the same hours in the same day as the holiday earnings.

The bill also adds provisions regarding the war on terror veteran employment rights and benefits. In its main provisions, the bill:

(1) Defines a "war on terror veteran" as a member of the National Guard or a United States armed forces reserve unit who was deployed after September 11, 2001; employed either full or part time prior to deployment; and was unemployed either during deployment or within 30 days after the completion of his or her deployment;

(2) Specifies that a war on terror veteran is entitled to a maximum weekly benefit equal to 8% of the wages earned during the highest earnings quarter of the five quarters prior to the veteran's deployment. The maximum weekly benefit amount may not exceed \$1,153.64 adjusted annually by the federal Consumer Price Index. A veteran may receive benefits for a maximum of 26 weeks;

(3) Requires an employer who is found by a court to have terminated, demoted, or taken an adverse employment action against a war on terror veteran due to the veteran's absence while deployed to be subject to an administrative penalty of \$25,000; however, the Director of the Division of Employment Security is required to review judgments in suits brought under the federal Uniform Service Employment and Reemployment Rights Act, 38 U.S.C. 4301, and may recognize a judgment as the

employer's penalty and waive the \$25,000 administrative penalty;

(4) Specifies that a veteran will not be considered to have voluntarily quit if he or she is not offered the same wages, benefits, and similar work schedule upon his or her return to work;

(5) Creates the War on Terror Unemployment Compensation Fund which will consist of administrative penalties paid by employers found in violation of these provisions; and

(6) Specifies that moneys in the fund will be used solely for the administration of the provisions regarding the war on terror veteran unemployment compensation.

The bill becomes effective October 1, 2006.