



House of Representatives

General Assembly

File No. 477

February Session, 2004

Substitute House Bill No. 5058

House of Representatives, April 6, 2004

The Committee on Finance, Revenue and Bonding reported through REP. STILLMAN of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING INTEREST ON FRAUDULENT
UNEMPLOYMENT COMPENSATION OVERPAYMENTS AND A FEE
FOR FAILURE BY CONTRIBUTING EMPLOYERS TO FILE TIMELY
UNEMPLOYMENT COMPENSATION QUARTERLY RETURNS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (b) of section 31-273 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2004*):

4 (b) (1) Any person who, by reason of fraud, wilful misrepresentation
5 or wilful nondisclosure by [him] such person or by another of a
6 material fact, has received any sum as benefits under this chapter
7 while any condition for the receipt of benefits imposed by this chapter
8 was not fulfilled in [his] such person's case, or has received a greater
9 amount of benefits than was due [him] such person under this chapter,
10 shall be charged with an overpayment and shall be liable to repay to
11 the administrator for the Unemployment Compensation Fund a sum

12 equal to the amount so overpaid to [him] such person. If such person
13 does not make repayment in full of the sum overpaid, the
14 administrator shall recoup such sum by offset from such person's
15 unemployment benefits. The deduction from benefits shall be one
16 hundred per cent of the person's weekly benefit entitlement until the
17 full amount of the overpayment has been recouped. Where such offset
18 is insufficient to recoup the full amount of the overpayment, the
19 claimant shall repay the remaining amount plus, for any determination
20 of an overpayment made on or after July 1, 2005, interest at the rate of
21 one per cent of the amount so overpaid per month, in accordance with
22 a repayment schedule as determined by the examiner. If the claimant
23 fails to repay according to the schedule, the administrator may recover
24 such overpayment plus interest through a wage execution against the
25 claimant's earnings upon [his] the claimant's return to work in
26 accordance with the provisions of section 52-361a, as amended. In
27 addition, the administrator may request the Commissioner of
28 Administrative Services to seek reimbursement for such amount
29 pursuant to section 12-742. The administrator is authorized, eight years
30 after the payment of any benefits described in this subsection, to cancel
31 any claim for such repayment or recoupment which in [his] the
32 administrator's opinion is uncollectible. Effective January 1, 1996, and
33 annually thereafter, the administrator shall report to the joint standing
34 committee of the General Assembly having cognizance of matters
35 relating to finance, revenue and bonding and the joint standing
36 committee of the General Assembly having cognizance of matters
37 relating to labor and public employees, the aggregate number and
38 value of all such claims deemed uncollectible and therefore cancelled
39 during the previous calendar year.

40 (2) Any person who has made a claim for benefits under this
41 chapter and has knowingly made a false statement or representation or
42 has knowingly failed to disclose a material fact in order to obtain
43 benefits or to increase the amount of benefits to which [he] such person
44 may be entitled under this chapter shall forfeit benefits for not less
45 than [two] one nor more than thirty-nine compensable weeks
46 following determination of such offense or offenses, during which

47 weeks [he] such person would otherwise have been eligible to receive
48 benefits. For the purposes of section 31-231b, such person shall be
49 deemed to have received benefits for such forfeited weeks. This
50 penalty shall be in addition to any other applicable penalty under this
51 section and in addition to the liability to repay any moneys so received
52 by such person and shall not be confined to a single benefit year.

53 (3) Any person charged with the fraudulent receipt of benefits or the
54 making of a fraudulent claim, as provided in this subsection, shall be
55 entitled to a hearing before the administrator, or a deputy or
56 representative designated by [him] the administrator. Notice of the
57 time and place of such hearing, and the reasons [therefore] for such
58 hearing, shall be given to the person not less than five days prior to the
59 date appointed for such hearing. The administrator shall determine, on
60 the basis of facts found by [him] the administrator, whether or not a
61 fraudulent act subject to the penalties of this subsection has been
62 committed and, upon such finding, shall fix the penalty for any such
63 offense according to the provisions of this subsection. Any person
64 determined by the administrator to have committed fraud under the
65 provisions of this section shall be liable for repayment to the
66 administrator of the Unemployment Compensation Fund for any
67 benefits determined by the administrator to have been collected
68 fraudulently, as well as any other penalties assessed by the
69 administrator in accordance with the provisions of this subsection.
70 Until such liabilities have been met to the satisfaction of the
71 administrator, such person shall forfeit [his] any right to receive
72 benefits under the provisions of this chapter. [Such] Notification of
73 such decision and penalty shall be mailed to such person's last known
74 address and shall be final unless such person files an appeal [within]
75 not later than twenty-one days after the mailing date of such
76 notification. [of such decision and penalty was mailed to his last-
77 known address.] If the last day for filing an appeal falls on any day
78 when the offices of the Employment Security Division are not open for
79 business, such last day shall be extended to the next business day.
80 Such appeal shall be heard by a referee in the same manner provided
81 in section 31-242 for an appeal from the decision of an examiner on a

82 claim for benefits. The manner in which such appeals shall be heard
83 and appeals taken therefrom to the board of review and then to the
84 Superior Court, either by the administrator or the claimant, shall be in
85 accordance with the provisions set forth in section 31-249 or 31-249b, as
86 the case may be. Any determination of overpayment made under this
87 subsection which becomes final on or after October 1, 1995, may be
88 enforced in the same manner as a judgment of the Superior Court
89 when the claimant fails to pay according to [his] the claimant's
90 repayment schedule. The court may issue execution upon any final
91 determination of overpayment in the same manner as in cases of
92 judgments rendered in the Superior Court; and upon the filing of an
93 application to the court for an execution, the administrator shall send
94 to the clerk of the court a certified copy of such determination.

95 Sec. 2. Section 31-273 of the general statutes is amended by adding
96 subsection (j) as follows (*Effective July 1, 2004*):

97 (NEW) (j) All interest payments collected by the administrator
98 under subsection (b) of this section, as amended by this act, shall be
99 deposited in the Employment Security Administration Fund.

100 Sec. 3. Subsection (j) of section 31-225a of the general statutes is
101 repealed and the following is substituted in lieu thereof (*Effective July*
102 *1, 2004*):

103 (j) (1) Each employer subject to this chapter shall submit quarterly,
104 on forms supplied by the administrator, a listing of wage information,
105 including the name of each employee receiving wages in employment
106 subject to this chapter, [his] such employee's Social Security account
107 number and the amount of wages paid to [him] such employee during
108 such calendar quarter.

109 (2) Commencing with the first calendar quarter of 1991, each
110 employer subject to this chapter who reports wages for two hundred
111 fifty or more employees receiving wages in employment subject to this
112 chapter, and each person or organization [which] that, as an agent,
113 reports wages for a total of two hundred fifty or more employees

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Labor Dept.	ESAF - Revenue Gain	Less than 700,000	Less than 1,000,000

Note: ESAF=Employment Security Administration Fund

Municipal Impact: None

Explanation

The bill will result in a revenue gain to the Employment Security Administration Fund (ESAF) within the Department of Labor. There are an estimated 7,000 late filings a quarter of employer wage reports. Based on the bill's \$25 late filing fee, this would result in an annual revenue gain of \$700,000. It is anticipated that a 100% collection rate will not be reached and to what extent a penalty would discourage late filing is unknown. Therefore the potential revenue gain to the ESAF would be affected accordingly.

Beginning July 1, 2005, it is anticipated that \$300,000 a year will be generated and deposited into the ESAF as a result of a 1% interest rate charge per month on fraudulent unemployment compensation overpayments. The actual overpayments are deposited back into the Unemployment Compensation Fund. It is anticipated that the minimum forfeiture penalty provision in the bill may result in a future potential minimal impact to the Unemployment Compensation Fund.

OLR BILL ANALYSIS

sHB 5058

AN ACT CONCERNING INTEREST ON FRAUDULENT UNEMPLOYMENT COMPENSATION OVERPAYMENTS AND A FEE FOR FAILURE BY CONTRIBUTING EMPLOYERS TO FILE TIMELY UNEMPLOYMENT COMPENSATION QUARTERLY RETURNS

SUMMARY:

This bill (1) authorizes the Department of Labor (DOL) to charge 1% interest per month on fraudulent unemployment compensation overpayments and (2) creates a \$25 late fee for employers who do not file the required quarterly employee wage reports on time. It requires that the interest payments and fees be deposited in the Employment Security Administration Fund.

It also reduces the minimum forfeiture penalty in cases of fraudulent claims from two weeks of unemployment benefits to one week.

EFFECTIVE DATE: July 1, 2004, except that interest can be charged only for fraudulent overpayments made on or after July 1, 2005.

INTEREST ON FRAUDULENT OVERPAYMENTS

DOL's Employment Security Division already recovers fraudulent overpayments of unemployment compensation. For overpayments made starting July 1, 2005 the bill allows the division to calculate interest of 1% per month on the overpaid amount. It allows the division to deduct the interest from the person's wages as is already allowed for overpayment collections.

As with overpayments by law, the bill specifies that the interest provision is triggered when the state cannot regain the overpayment by an offset from the recipient's ongoing unemployment benefits (i.e. the individual is no longer receiving benefits).

FORFEIT OF BENEFITS DUE TO FRAUD

Under current law, anyone found to have knowingly made a false

statement or misrepresentation in a compensation claim or to have failed to disclose a material fact to obtain benefits must forfeit from two to 39 weeks worth of compensation. The bill reduces the minimum forfeiture to one week.

BACKGROUND

Quarterly Wage Reports

By law, all employers subject to unemployment compensation rules must provide the Employment Security Division with quarterly reports listing wage information, including each employee's name and Social Security number and the amount of wages paid to each employee in that quarter.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference
Yea 11 Nay 2

Finance, Revenue and Bonding Committee

Joint Favorable Report
Yea 45 Nay 0