



General Assembly

January Session, 2009

Amendment

LCO No. 6763

HB0618406763SD0

Offered by:
SEN. PRAGUE, 19th Dist.

To: House Bill No. 6184

File No. 284

Cal. No. 248

"AN ACT PRESERVING GOOD CAUSE FOR LATE FILING OF CERTAIN UNEMPLOYMENT COMPENSATION APPEALS."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 31-225 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2009*):

5 (a) Each contributing employer who is subject to this chapter shall
6 pay to the administrator contributions, which shall not be deducted or
7 deductible from wages, at a rate which is established and adjusted in
8 accordance with the provisions of section 31-225a, stated as a
9 percentage of the wages paid by said employer with respect to
10 employment. In no event shall any employer be required to pay
11 contributions on any amount of wages for which said employer has
12 previously paid contributions.

13 (b) Contributions shall be payable quarterly or for such shorter
14 periods of not less than four weeks as the administrator may

15 determine, provided no such contribution period shall include parts of
16 two calendar quarters.

17 (c) Each contribution payment shall be made on or before the last
18 day of the month next following the end of the period of employment
19 with respect to which it is made. The administrator may make and
20 publish regulations with reference to the details of the computation
21 and payment of such contributions. Indian tribes or tribal units, which
22 units include subdivisions, subsidiaries or business enterprises wholly
23 owned by such Indian tribes, subject to subparagraphs (C) and (E) of
24 subdivision (1) of subsection (a) of section 31-222 and this section after
25 December 20, 2000, shall pay contributions under the same terms and
26 conditions as all other subject employers, unless they elect to pay into
27 the Unemployment Compensation Fund amounts equal to the amount
28 of benefits attributable to service in the employ of the Indian tribe.

29 (d) In lieu of contributions required of employers subject to this
30 chapter, the state shall pay into the Unemployment Compensation
31 Fund an amount equivalent to the amount of benefits charged to the
32 state as provided in section 31-225a, or may at its option make
33 payments as provided in subdivision (1) of subsection (g) of this
34 section for all regular and additional benefits, except that the state shall
35 pay one hundred per cent of all extended benefits paid that are
36 attributable to service in its employ. The amount of payments required
37 under this section to be made into the fund shall be ascertained by the
38 administrator as soon as practicable after the end of each calendar
39 quarter and shall be payable from the General Fund of the state, except
40 as provided hereafter. If a claimant to whom benefits were paid was
41 paid wages by the state during the base period from a special or
42 administrative fund provided for by law, the payment into the
43 Unemployment Compensation Fund shall be made from such special
44 or administrative fund with the approval of the Secretary of the Office
45 of Policy and Management. The payment by the state into the fund
46 shall be made at such times and in such manner as the administrator
47 may determine and prescribe.

48 (e) In lieu of contributions required of employers subject to this
49 chapter, Indian tribes, towns, cities and other political and
50 governmental subdivisions of the state and of the towns and cities may
51 pay into the Unemployment Compensation Fund an amount
52 equivalent to the amount of benefits charged to such Indian tribe,
53 town, city or other political or governmental subdivision as provided
54 in section 31-225a, or may at its option make payments as provided in
55 subdivision (1) of subsection (g) of this section for all regular and
56 additional benefits, except that such entities shall pay one hundred per
57 cent of all extended benefits paid that are attributable to service in their
58 employ, provided Indian tribes shall determine if reimbursement for
59 benefits paid is to be elected by the tribe as a whole, by individual
60 tribal units or by combinations of the individual tribal units. The
61 amount of payments required under this section to be made into the
62 fund shall be ascertained by the administrator as soon as practicable
63 after the end of each calendar quarter. The payments by such Indian
64 tribe, town, city or political or governmental subdivision into the fund
65 shall be made quarterly or at such times and in such manner as the
66 administrator may determine and prescribe.

67 (f) Payment of any bill rendered by the administrator under
68 subsection (e) of this section shall be made not later than thirty days
69 after such bill was mailed to the Indian tribe, municipality or political
70 or governmental subdivision concerned, to the chief executive officer,
71 clerk or other official or office having charge of making disbursements,
72 or to the official or office designated by the Indian tribe, municipality
73 or political governmental subdivision as authorized to receive such
74 notices. Payments made under the provisions of subsection (e) of this
75 section shall not be deducted or deductible, in whole or in part, from
76 the remuneration of individuals in the employ of the employer. Past
77 due payments of amounts due hereunder or under subsection (e) of
78 this section shall be subject to the same interest that applies to section
79 31-265 to past due contributions.

80 (1) Indian tribes or tribal units shall be billed for the full amount of

81 benefits attributable to service in the employ of the Indian tribe or
82 tribal unit on the same schedule as other employing units that have
83 elected to make payments in lieu of contributions.

84 (2) Failure of the Indian tribe or tribal unit to make required
85 payments, including assessment of interest and penalty, within ninety
86 days of receipt of the bill, shall cause the Indian tribe to lose the option
87 to make payments in lieu of contributions, as described in subsection
88 (e) of this section, for the following tax year unless payment in full is
89 received or a payment schedule has been approved by the
90 administrator or the administrator's designee before contribution rates
91 for the next tax year are computed.

92 (3) Any Indian tribe or tribal unit that loses the option to make
93 payments in lieu of contributions due to late payment or nonpayment,
94 as described in subdivision (1) of this subsection, shall have the option
95 reinstated if, after a period of one year, all contributions have been
96 made timely, provided no contributions, payments in lieu of
97 contributions for benefits paid, penalties or interest remain
98 outstanding.

99 (4) Failure of the Indian tribe or any tribal unit thereof to make
100 required payments, including assessments of interest and penalty,
101 after all collection activities deemed necessary by the administrator
102 have been exhausted, may cause services performed for such tribe to
103 not be treated as "employment" for purposes of subsection (a) of
104 section 31-222.

105 (5) The administrator may determine that any Indian tribe or tribal
106 unit that loses coverage under subdivision (4) of this subsection may
107 have services performed for such tribe again included as
108 "employment" for purposes of subsection (a) of section 31-222 if all
109 contributions, payments in lieu of contributions, penalties and interest
110 have been paid.

111 (6) The administrator shall notify the United States Internal Revenue

112 Service and the United States Department of Labor of: (A) Any failure
113 of an Indian tribe or tribal unit to make payments required under this
114 section, including assessments of interest and penalty, within ninety
115 days of a final notice of delinquency; and (B) any termination or
116 reinstatement of coverage made under subdivisions (4) and (5) of this
117 subsection.

118 (7) At the discretion of the administrator, any Indian tribe or tribal
119 unit that elects to become liable for payments in lieu of contributions
120 shall be required, within sixty days after the effective date of its
121 election, to: (A) Execute and file with the administrator a surety bond
122 approved by the administrator, or (B) deposit with the administrator
123 money or securities on the same basis as other employers with the
124 same election option.

125 (8) Notices of payment and reporting delinquency to Indian tribes
126 or tribal units pursuant to subsection (f) of this section shall include
127 information that failure to make full payment within the prescribed
128 time frame: (A) Shall cause the Indian tribe to be liable for taxes under
129 the Federal Unemployment Tax Act; (B) shall cause the Indian tribe to
130 lose the option to make payments in lieu of contributions; and (C) may
131 cause any services performed in the employ of the Indian tribe to be
132 excepted from the definition of "employment" as provided in
133 subsection (a) of section 31-222.

134 (g) Benefits paid to employees of nonprofit organizations shall be
135 financed in accordance with the provisions of this subsection. For the
136 purpose of this subsection, a nonprofit organization is an organization
137 or group of organizations described in Section 501(c)(3) of the Federal
138 Internal Revenue Code which is exempt from income tax under
139 Section 501(a) of said code.

140 (1) Any nonprofit organization which, pursuant to subdivision (1)
141 (D) of subsection (a) of section 31-222 is, or becomes, subject to this
142 chapter on or after January 1, 1971, shall pay contributions under the
143 provisions of subsection (a), unless it elects, in accordance with this

144 subparagraph, to pay to the administrator for the unemployment fund
145 an amount equal to the amount of regular and additional benefits and
146 of one-half of the extended benefits paid, that is attributable to service
147 in the employ of such nonprofit organization. (A) Any nonprofit
148 organization which is, or becomes, subject to this chapter on January 1,
149 1971, may elect to become liable for payments in lieu of contributions
150 for a period of not less than one taxable year beginning with January 1,
151 1971, provided it shall file with the administrator a written notice of its
152 election within the thirty-day period immediately following July 1,
153 1971. (B) Any nonprofit organization which becomes subject to this
154 chapter after January 1, 1971, may elect to become liable for payments
155 in lieu of contributions for a period of not less than twelve months
156 beginning with the date on which it so becomes subject by filing a
157 written notice of its election with the administrator not later than thirty
158 days immediately following the date of the determination that it is so
159 subject. (C) Any nonprofit organization which makes an election in
160 accordance with subparagraph (A) or subparagraph (B) of this
161 subdivision shall continue to be liable for payments in lieu of
162 contributions until it files with the administrator a written notice
163 terminating its election not later than thirty days prior to the beginning
164 of the taxable year for which such termination shall first be effective,
165 provided liability for payments in lieu of contributions shall continue
166 for any benefits attributable to service in the employ of such
167 organization while it was electing payments in lieu of contributions.
168 For purposes of benefit ratio and for billing purposes, an organization
169 which terminates its election of payments in lieu of contributions shall
170 be treated as two separate employers. (D) Any nonprofit organization
171 which has been paying contributions under this chapter for a period
172 subsequent to January 1, 1971, may change to a reimbursable basis by
173 filing with the administrator not later than thirty days prior to the
174 beginning of any taxable year a written notice of election to become
175 liable for payments in lieu of contributions. Such election shall not be
176 terminable by the organization for that and the next year. (E) The
177 administrator may for good cause extend the period within which a
178 notice of election, or a notice of termination, must be filed and may

179 permit an election to be retroactive but not any earlier than with
180 respect to benefits paid after December 31, 1970. (F) The administrator,
181 in accordance with such regulations as the administrator may
182 prescribe, shall notify each nonprofit organization of any
183 determination which the administrator may make of its status as an
184 employer and of the effective date of any election which it makes and
185 of any termination of such election. Such determinations shall be
186 subject to reconsideration, appeal and review in accordance with the
187 provisions of this chapter applicable to determination, appeal and
188 review.

189 (2) Payments in lieu of contributions shall be made in accordance
190 with the following provisions: (A) At the end of each calendar quarter,
191 or at the end of any other period as determined by the administrator,
192 the administrator shall bill each nonprofit organization or group of
193 such organizations which has elected to make payments in lieu of
194 contributions for an amount equal to the full amount of regular and
195 additional benefits plus one-half of the amount of extended benefits
196 paid during such quarter or other prescribed period that is attributable
197 to service in the employ of such organization. (B) Payment of any bill
198 rendered under this subsection shall be made not later than thirty days
199 after such bill was mailed to the last-known address of the nonprofit
200 organization or was otherwise delivered to it, unless there has been an
201 application for review and redetermination in accordance with
202 subparagraph (D). (C) Payments made by any nonprofit organization
203 under the provisions of this subsection shall not be deducted or
204 deductible, in whole or in part, from the remuneration of individuals
205 in the employ of the organization. (D) The amount due specified in any
206 bill from the administrator shall be conclusive on the organization
207 unless, within the time prescribed in section 31-241 after the bill was
208 mailed to its last-known address or otherwise delivered to it, the
209 organization files an application for redetermination by the
210 administrator or an appeal in the manner provided in sections 31-241
211 and 31-242 setting forth the grounds for such application or appeal.
212 The administrator or referee, as the case may be, shall promptly review

213 and reconsider the amount due specified in the bill and shall thereafter
214 issue a redetermination or decision, as applicable in any case in which
215 such application for redetermination or appeal has been filed. Any
216 redetermination by the administrator shall be conclusive on the
217 organization unless, within the time prescribed in section 31-241 after
218 the redetermination was mailed to its last-known address or otherwise
219 delivered to it, the organization files an appeal in the manner
220 prescribed in sections 31-241 and 31-242, setting forth the grounds for
221 the appeal. The decision of the referee shall become final on the
222 twenty-second day after the date of its rendition unless the party
223 aggrieved thereby, including the administrator, files an appeal in the
224 manner provided in section 31-249, setting forth the grounds for the
225 appeal. Redeterminations by the administrator shall be governed by
226 the provisions of section 31-243. Proceedings on appeal to the
227 unemployment compensation referee from the amount of a bill
228 rendered under this subsection or a redetermination of such amount
229 shall be in accordance with the provisions of section 31-242 and the
230 decision of the referee shall be subject to the provisions of sections 31-
231 248 and 31-249. (E) Past due payments of amounts in lieu of
232 contributions shall be subject to the same interest that, pursuant to
233 section 31-265 applies to past due contributions; an employer electing
234 reimbursement is subject to the same penalties provided under this
235 chapter as employers paying contributions.

236 (3) If the administrator at any time deems it necessary because of the
237 financial condition of the organization, any nonprofit organization that
238 elects to become liable for payments in lieu of contributions shall be
239 required, within thirty days, to execute and file with the administrator
240 a surety bond approved by the administrator or it may elect instead to
241 deposit with the administrator cash or securities. The amount of such
242 bond or deposit shall be determined in accordance with the provisions
243 of this subdivision. (A) The amount of the bond or deposit required by
244 this subdivision shall be determined by the administrator but shall not
245 exceed a percentage of the organization's annual taxable payroll equal
246 to the maximum rate that any employer liable for contributions during

247 the year involved would have to pay for employment as defined in
248 subsection (b) of section 31-222 for the four calendar quarters
249 immediately preceding the effective date of the election, the renewal
250 date in the case of a bond, or the biennial anniversary of the effective
251 date of election in the case of a deposit of cash or securities, whichever
252 date shall be most recent and applicable. If the nonprofit organization
253 did not pay wages in each of such four calendar quarters, the amount
254 of the bond or deposit shall be as determined by the administrator. The
255 term "cash" includes certified or bank checks or other guaranteed
256 instruments. (B) Any bond deposited under this subdivision shall be in
257 force for a period of not less than two taxable years and shall be
258 renewed with the approval of the administrator, at such times as the
259 administrator may prescribe, but not less frequently than at two-year
260 intervals as long as the organization continues to be liable for
261 payments in lieu of contributions. The administrator shall require
262 adjustments to be made in a previously filed bond as the administrator
263 deems appropriate. If the bond is to be increased, the adjusted bond
264 shall be filed by the organization within thirty days of the date notice
265 of the required adjustment was mailed or otherwise delivered to it.
266 Failure by any organization covered by such bond to pay the full
267 amount of payments in lieu of contributions when due, together with
268 any applicable interest and penalties provided for in subdivision (2)
269 (E) of this subsection, shall render the surety liable on such bond to the
270 extent of the bond, as though the surety was such organization. (C)
271 Any deposit of cash or securities in accordance with this subdivision
272 shall be retained by the administrator in an escrow account until
273 liability under the election is terminated, at which time it shall be
274 returned to the organization, less any deductions as hereinafter
275 provided. The administrator may deduct from the cash deposited
276 under this subdivision by a nonprofit organization or sell the securities
277 it has so deposited to the extent necessary to satisfy any due and
278 unpaid payments in lieu of contributions and any applicable interest
279 and penalties provided for in subdivision (2) (E) of this subsection. The
280 administrator shall require the organization within thirty days
281 following any deduction from a cash deposit or sale of deposited

282 securities under the provisions of this subparagraph to deposit
283 sufficient additional cash or securities to make whole the
284 organization's deposit at the prior level. Any cash remaining from the
285 sale of such securities shall be a part of the organization's escrow
286 account. The administrator may, at any time, review the adequacy of
287 the deposit made by any organization. If, as a result of such review, the
288 administrator determines that an adjustment is necessary, said
289 administrator shall require the organization to make additional deposit
290 within thirty days of written notice of determination or shall return to
291 it such portion of the deposit as the administrator no longer considers
292 necessary, whichever action is appropriate. Disposition of income from
293 securities held in escrow shall be governed by any applicable provision
294 of state law. (D) If any nonprofit organization fails to file a bond or
295 make a deposit, or to file a bond in an increased amount or to increase
296 or make whole the amount of a previously made deposit, as provided
297 under this subdivision, the administrator may terminate such
298 organization's election to make payments in lieu of contributions and
299 such termination shall continue for not less than the four-consecutive-
300 calendar-quarter period beginning with the quarter in which such
301 termination becomes effective; provided the administrator may extend
302 for good cause the applicable filing, deposit or adjustment period by
303 not more than fifteen days.

304 (4) If any nonprofit organization is delinquent in making payments
305 in lieu of contributions as required under subdivision (2) of this
306 subsection, and a bond or security as provided in subdivision (3) of
307 this subsection has not been required, or required and not filed within
308 thirty days, the administrator may terminate such organization's
309 election to make payments in lieu of contributions as of the beginning
310 of the next taxable year, and such termination shall be effective for that
311 and the next taxable year.

312 (5) Each employer that is liable for payments in lieu of contributions
313 shall pay to the administrator for the fund the amount of regular and
314 additional benefits plus the amount of one-half of extended benefits

315 paid that are attributable to service in the employ of such employer. If
316 benefits paid to an individual are based on wages paid by more than
317 one employer and one or more of such employers are liable for
318 payments in lieu of contributions, the amount payable to the fund by
319 each employer that is liable for such payments, shall be an amount
320 which bears the same ratio to the total benefits paid to the individual
321 as the total base period wages paid to the individual by such employer
322 bear to the total base period wages paid to the individual by all of the
323 individual's base period employers.

324 (6) Any two or more employers that have become liable for
325 payments in lieu of contributions may file a joint application to the
326 administrator for the establishment of a group account for the purpose
327 of sharing the cost of benefits paid that are attributable to service in the
328 employ of such employers. Each such application shall identify and
329 authorize a group representative to act as the group's agent for the
330 purposes of this subdivision. Upon the administrator's approval of the
331 application, the administrator shall establish a group account for such
332 employers effective as of the beginning of the calendar quarter in
333 which the administrator receives the application and shall notify the
334 group's representative of the effective date of the account. Such
335 account shall remain in effect for not less than one year and thereafter
336 until terminated at the discretion of the administrator or upon
337 application by the group. Upon establishment of the account, each
338 member of the group shall be liable for payments in lieu of
339 contributions with respect to each calendar quarter in the amount that
340 bears the same ratio to the total benefits paid in such quarter that are
341 attributable to service performed in the employ of all members of the
342 group as the total wages paid for service in employment by such
343 member in such quarter bear to the total wages paid during such
344 quarter for service performed in the employ of all members of the
345 group. The administrator shall prescribe such regulations as he or she
346 deems necessary with respect to applications for establishment,
347 maintenance and termination of group accounts that are authorized by
348 this subdivision, for addition of new members to, and withdrawal of

349 active members from, such accounts, and for the determination of the
350 amounts that are payable under this subdivision by members of the
351 group and the time and manner of such payments.

352 (h) Subsections (a) to (g), inclusive, of this section shall first apply to
353 benefits charged with respect to benefits paid in benefit years starting
354 on or after June 30, 1975.

355 (i) Notwithstanding any other provision of the general statutes to
356 the contrary, any employer, individual, organization, partnership,
357 corporation or other legal entity which engages, in any manner, in
358 contract construction activity in this state and which has its base of
359 operations and is incorporated in another state, shall furnish to the
360 administrator before beginning any such construction activity, a bond,
361 with a surety or sureties satisfactory to the administrator, in an amount
362 to be determined by the administrator. The administrator shall adopt
363 regulations, in accordance with the provisions of chapter 54,
364 establishing the method for computation of such bond amounts. The
365 use of such bonds shall be limited to payment for any unpaid
366 unemployment compensation contributions, interest and penalties due
367 from such contractor and attributable to such contracted work."