

LEGISLATURE OF NEBRASKA
NINETY-EIGHTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 952

Introduced by Business and Labor Committee:
Vrtiska, 1, Chairperson; Burling, 33; Combs, 32;
Kremer, 34; Preister, 5

Read first time January 9, 2004

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to employment security law; to amend sections
2 48-648.01 and 48-649, Reissue Revised Statutes of
3 Nebraska, and section 48-648, Revised Statutes
4 Supplement, 2002; to provide for electronic payments,
5 reports, and reimbursements by employers as prescribed;
6 to provide an operative date; and to repeal the original
7 sections.

8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 48-648, Revised Statutes Supplement,
2 2002, is amended to read:

3 48-648. (1) Combined tax shall accrue and become payable
4 by each employer not otherwise entitled to make payments in lieu of
5 contributions for each calendar year in which he or she is subject
6 to the Employment Security Law, with respect to wages for
7 employment. Such combined tax shall become due and be paid by each
8 employer to the commissioner for the State Unemployment Insurance
9 Trust Fund and the Unemployment Trust Fund in such manner and at
10 such times as the commissioner may, by rule and regulation,
11 prescribe and shall not be deducted, in whole or in part, from the
12 wages of individuals in such employer's employ. The commissioner
13 may require that any employer whose annual payroll for either of
14 the two preceding calendar years has equaled or exceeded one
15 million dollars to file combined tax returns and pay combined taxes
16 owed via an electronic method approved by the commissioner, except
17 when the employer establishes to the satisfaction of the
18 commissioner that filing the combined tax return or payment of the
19 tax by an electronic method would work a hardship on the employer.
20 In the payment of any combined tax, a fractional part of a cent
21 shall be disregarded unless it amounts to one-half cent or more, in
22 which case it shall be increased to one cent.

23 (2) If two or more related corporations or limited
24 liability companies concurrently employ the same individual and
25 compensate such individual through a common paymaster which is one
26 of such corporations or limited liability companies, each such
27 corporation or limited liability company shall be considered to
28 have paid as remuneration to such individual only the amounts

1 actually disbursed by it to such individual and shall not be
2 considered to have paid as remuneration to such individual amounts
3 actually disbursed to such individual by another of such
4 corporations or limited liability companies. An employee of a
5 wholly owned subsidiary shall be considered to be concurrently
6 employed by the parent corporation, company, or other entity and
7 the wholly owned subsidiary whether or not both companies
8 separately provide remuneration.

9 (3) The professional employer organization shall report
10 and pay combined tax, penalties, and interest owed upon wages
11 earned by worksite employees under the client's employer account
12 number using the client's combined tax rate. The client is liable
13 for the payment of unpaid combined tax, penalties, and interest
14 owed upon wages paid to worksite employees, and the worksite
15 employees shall be considered employees of the client for purposes
16 of the Employment Security Law.

17 Sec. 2. Section 48-648.01, Reissue Revised Statutes of
18 Nebraska, is amended to read:

19 48-648.01. The Commissioner of Labor may require by rule
20 and regulation that not later than October 1, 1988, each employer
21 subject to the Employment Security Law shall submit to the
22 commissioner quarterly wage reports on such forms and in such
23 manner as the commissioner may prescribe. The commissioner may
24 require that any employer whose annual payroll for either of the
25 two preceding calendar years has equaled or exceeded one million
26 dollars to file wage reports via an electronic method approved by
27 the commissioner, except when the employer establishes to the
28 satisfaction of the commissioner that filing by an electronic

1 method would work a hardship on the employer. ~~Such~~ The quarterly
2 wage reports shall be used by the commissioner to make monetary
3 determinations of claims for benefits.

4 Sec. 3. Section 48-649, Reissue Revised Statutes of
5 Nebraska, is amended to read:

6 48-649. The commissioner shall, for each calendar year,
7 determine the combined tax rate applicable to each employer on the
8 basis of his or her actual experience in the payment of
9 contributions and with respect to benefits charged against his or
10 her separate experience account, in accordance with the following
11 requirements:

12 (1) Commencing January 1, 1996, the commissioner shall,
13 in April or May, for each calendar year, and based upon information
14 available through the department, determine the state unemployment
15 insurance tax rate for the following year. The state unemployment
16 insurance tax rate shall be zero percent if:

17 (a) The minimum reserve ratio for the lowest combined tax
18 rate exceeds ten and five-tenths percent for the current year;

19 (b) The average balance in the State Unemployment
20 Insurance Trust Fund at the end of any three months in the
21 preceding calendar year is greater than one percent of state
22 taxable wages for the same preceding year;

23 (c) The balance in the State Unemployment Insurance Trust
24 Fund equals or exceeds thirty percent of the average month end
25 balance of the state's account in the Unemployment Trust Fund for
26 the three lowest calendar months in the preceding year; or

27 (d) The state advisory council determines that a zero
28 percent state unemployment insurance tax rate is in the best

1 interests of preserving the integrity of the state's account in the
2 Unemployment Trust Fund;

3 (2) If the state unemployment insurance tax rate is not
4 zero percent as determined in this section, the combined tax rate
5 shall be divided so that eighty percent of the combined tax rate
6 equals the contribution rate and twenty percent of the combined tax
7 rate equals the state unemployment insurance tax rate except for
8 employers who are assigned the five and four-tenths percent
9 combined tax rate. For those employers, the state unemployment
10 insurance tax rate shall equal zero and their combined tax rate
11 shall equal their contribution rate. When the state unemployment
12 insurance tax rate is determined to be zero percent pursuant to
13 subdivision (1) of this section, the contribution rate for all
14 employers shall equal one hundred percent of the combined tax rate;

15 (3) An employer's contribution rate shall be three and
16 five-tenths percent of his or her annual payroll and for calendar
17 years beginning 1996 an employer's combined tax rate shall be three
18 and five-tenths percent of his or her annual payroll unless and
19 until (a) benefits have been payable from and chargeable to his or
20 her experience account throughout the preceding one calendar year
21 and (b) contributions have been payable to the fund and credited to
22 his or her experience account with respect to the two preceding
23 calendar years. Subject to fair and reasonable rules and
24 regulations of the commissioner issued with due regard for the
25 solvency of the fund, the combined tax rate required of each
26 employer who meets the requirements of subdivisions (a) and (b) of
27 this subdivision shall be based directly on his or her
28 contributions to and benefit experience of his or her experience

1 account and shall be determined by the commissioner for each
2 calendar year at its beginning. Such rate shall not be greater
3 than three and five-tenths percent of his or her annual payroll if
4 his or her experience account exhibits a positive balance as of the
5 beginning of such calendar year, but for any employer who has been
6 subject to the payment of contributions for any two preceding
7 calendar years, regardless of whether such years are consecutive,
8 and whose experience account exhibits a negative balance as of the
9 beginning of such calendar year, the rate shall be greater than
10 three and five-tenths percent of his or her annual payroll but not
11 greater than five and four-tenths percent of his or her annual
12 payroll until such time as the experience account exhibits a
13 positive balance, and thereafter the rate shall not be greater than
14 three and five-tenths percent of his or her annual payroll. The
15 standard rate shall be five and four-tenths percent of the
16 employer's annual payroll. As used in this subdivision, standard
17 rate shall mean the rate from which all reduced rates are
18 calculated;

19 (4) Any employer may at any time make voluntary
20 contributions, additional to the required contributions, to the
21 fund to be credited to his or her account. Voluntary contributions
22 received after March 10 of any year shall not be used in rate
23 calculations for the same calendar year;

24 (5) As used in sections 48-648 to 48-654, the term
25 payroll shall mean the total amount of wages during a calendar
26 year, except as otherwise provided in section 48-654, by which the
27 combined tax was measured; and

28 (6) (a) The state or any of its instrumentalities shall

1 make payments in lieu of contributions in an amount equal to the
2 full amount of regular benefits plus one-half of the amount of
3 extended benefits paid during each calendar quarter that is
4 attributable to service in employment of the state or any of its
5 instrumentalities. The commissioner after the end of each calendar
6 quarter shall notify any state instrumentality or other public
7 employer of the amount of regular benefits and one-half the amount
8 of extended benefits paid that are attributable to service in its
9 employment and the instrumentality or public employer so notified
10 shall reimburse the fund within thirty days after receipt of such
11 notice. The commissioner may require that any employer whose
12 annual payroll for either of the two preceding calendar years has
13 equaled or exceeded one million dollars to pay the reimbursement
14 via an electronic method approved by the commissioner, except when
15 the employer establishes to the satisfaction of the commissioner
16 that payment of the reimbursement by an electronic method would
17 work a hardship on the employer;

18 (b) ~~after~~ After December 31, 1977, the state or any of
19 its political subdivisions and any instrumentality of one or more
20 of the foregoing or any other governmental entity for which
21 services in employment as is provided by subdivision (4)(a) of
22 section 48-604 are performed shall be required to pay contributions
23 and after December 31, 1996, combined tax on wages paid for
24 services rendered in its or their employment on the same basis as
25 any other employer who is liable for the payment of combined tax
26 under the Employment Security Law, unless the state or any
27 political subdivision thereof and any instrumentality of one or
28 more of the foregoing or any other governmental entity for which

1 such services are performed files with the commissioner its written
2 election not later than January 31, 1978, or if such employer
3 becomes subject to this section after January 1, 1978, not later
4 than thirty days after such subjectivity begins, to become liable
5 to make payments in lieu of contributions in an amount equal to the
6 full amount of regular benefits plus one-half of the amount of
7 extended benefits paid during each calendar quarter that is
8 attributable to service in employment of such electing employer
9 prior to December 31, 1978, and in an amount equal to the full
10 amount of regular benefits plus the full amount of extended
11 benefits paid during each calendar quarter that is attributable to
12 service in employment of such electing employer after January 1,
13 1979. Eligible employers electing to make payments in lieu of
14 contributions shall not be liable for state unemployment insurance
15 tax payments. The commissioner, after the end of each calendar
16 quarter, shall notify any such employer that has so elected of the
17 amount of benefits for which it is liable to pay pursuant to its
18 election that have been paid that are attributable to service in
19 its employment and the employer so notified shall reimburse the
20 fund within thirty days after receipt of such notice; and

21 (c) ~~any~~ Any employer which makes an election in
22 accordance with subdivision (b) of this subdivision to become
23 liable for payments in lieu of contributions shall continue to be
24 liable for payments in lieu of contributions for all benefits paid
25 based upon wages paid for service in employment of such employer
26 while such election is effective and such election shall continue
27 until such employer files with the commissioner, not later than
28 December 1 of any calendar year, a written notice terminating its

1 election as of December 31 of that year and thereafter such
2 employer shall again be liable for the payment of contributions and
3 for the reimbursement of such benefits as may be paid based upon
4 wages paid for services in employment of such employer while such
5 election was effective.

6 Sec. 4. This act becomes operative on January 1, 2005.

7 Sec. 5. Original sections 48-648.01 and 48-649, Reissue
8 Revised Statutes of Nebraska, and section 48-648, Revised Statutes
9 Supplement, 2002, are repealed.