

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 827

Introduced by Business and Labor Committee: Cunningham, 40;
Chairperson; Burling, 33; Combs, 32; Kremer, 34;
Preister, 5; Schimek, 27

Read first time January 4, 2006

Committee: Business and Labor

A BILL

1 FOR AN ACT relating to the Employment Security Law; to amend
2 sections 48-665 and 48-665.01, Reissue Revised Statutes
3 of Nebraska, and section 48-601, Revised Statutes
4 Supplement, 2005; to change and provide provisions
5 relating to overpayments; to harmonize provisions; and to
6 repeal the original sections.

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

1 Section 1. Section 48-601, Revised Statutes Supplement,
2 2005, is amended to read:

3 48-601 Sections 48-601 to 48-671 and sections 4 and 5 of
4 this act shall be known and may be cited as the Employment Security
5 Law.

6 Sec. 2. Section 48-665, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 48-665 Any person who has received any sum as more
9 benefits under the Employment Security Law ~~to which~~ than he
10 or she was ~~not~~ entitled to shall be liable to repay such sum
11 overpayment to the commissioner for the fund. ~~Any such erroneous~~
12 ~~benefit payments~~ An appeal may be taken from a determination
13 establishing an overpayment in the manner provided in section
14 48-634. An overpayment shall be collectible (1) without interest
15 by civil action in the name of the commissioner, (2) by offset
16 against any future benefits payable to the claimant with respect
17 to the benefit year current at the time of such receipt or any
18 benefit year which may commence within three years after the end
19 of such current benefit year, except that no such recoupment by
20 the withholding of future benefits shall be had if such sum was
21 received by such person without fault on his or her part and such
22 recoupment would defeat the purpose of the Employment Security Law
23 or would be against equity and good conscience, ~~or~~ (3) by setoff
24 against any state income tax refund due the claimant pursuant to
25 sections 77-27,197 to 77-27,209, or (4) in the manner provided in

1 section 4 or 5 of this act.

2 Sec. 3. Section 48-665.01, Reissue Revised Statutes of
3 Nebraska, is amended to read:

4 48-665.01 Any person who has received ~~any sum as more~~
5 ~~benefits to which~~ than he or she was ~~not~~ entitled to from any
6 agency which administers an employment security law of another
7 state or foreign government and who has been found liable to
8 repay ~~benefits received~~ such overpayment under such law may be
9 required to repay to the commissioner for such state or foreign
10 government the amount found due. Such amount, ~~without interest,~~ may
11 be collected (1) by civil action in the name of the commissioner
12 acting as agent for such agency, (2) by offset against any future
13 benefits payable to the claimant under the Employment Security Law
14 for any benefit year which may commence within three years after
15 the claimant was notified such amount was due, except that no such
16 recoupment by the withholding of future benefits shall be had if
17 such sum was received by such person without fault on his or her
18 part and such recoupment would defeat the purpose of the Employment
19 Security Law or would be against equity and good conscience, or
20 (3) by setoff against any state income tax refund due the claimant
21 pursuant to sections 77-27,197 to 77-27,209.

22 Sec. 4. If any person liable to repay an overpayment
23 of unemployment benefits under section 48-665 fails or refuses
24 to repay such overpayment within twelve months after the date
25 the overpayment determination becomes final under the Employment

1 Security Law, the commissioner may file the determination with the
2 district court of any county or counties in the State of Nebraska
3 upon the payment of a fee of twenty-five dollars to the clerk
4 of each district court where such determination is filed. Upon
5 filing, such determination shall have the same force and effect as
6 a judgment of such district court or courts and all proceedings in
7 relation thereto shall be the same as though the determination had
8 been rendered in an action heard and determined by such district
9 court or courts.

10 Sec. 5. (1) If any person liable to repay an overpayment
11 of unemployment benefits under section 48-665 fails or refuses
12 to repay such overpayment within twelve months after the date
13 the overpayment determination becomes final under the Employment
14 Security Law, the commissioner may issue a levy on the salary,
15 wages, or other regular payments due to or received by such person
16 and such levy shall be continuous from the date the levy is served
17 until the amount of the levy, with accrued interest, is satisfied,
18 except that no such levy shall be had if the overpayment was
19 received by the person without fault on his or her part and such
20 recoupment would defeat the purpose of the Employment Security Law
21 or would be against equity and good conscience. Notice of the levy
22 shall be mailed to the person whose salary, wages, or other regular
23 payment is levied upon at his or her last-known address not later
24 than the date that the levy is served. Exemptions or limitations
25 on the amount of salary, wages, or other regular payment that can

1 be garnished or levied upon by a judgment creditor shall apply to
2 levies made pursuant to this section. Appeal of a levy may be made
3 in the manner provided in section 48-634, but such appeal shall not
4 act as a stay of the levy.

5 (2) Any person upon whom a levy is served who fails or
6 refuses to honor the levy without cause may be held liable for the
7 amount of the levy up to the value of the assets of the person
8 liable to repay the overpayment that are under the control of the
9 person upon whom the levy is served at the time of service and
10 thereafter.

11 Sec. 6. Original sections 48-665 and 48-665.01, Reissue
12 Revised Statutes of Nebraska, and section 48-601, Revised Statutes
13 Supplement, 2005, are repealed.