

1 H.306

2 Introduced by Representatives Botzow of Pownal, Marcotte of Coventry, and
3 Kitzmiller of Montpelier

4 Referred to Committee on

5 Date:

6 Subject: Labor; employment practices; unemployment compensation; general
7 benefits

8 Statement of purpose of bill as introduced: This bill proposes to clarify the
9 process for investigating complaints of unpaid wages, to permit the
10 Commissioner of Labor to make an assessment of the unemployment
11 compensation contributions due from an employer if the employer fails to file
12 accurate or complete reports with the Department, to clarify the types of
13 income that disqualify an individual from receiving unemployment benefits, to
14 extend the statute of limitations for recovering overpayments of unemployment
15 benefits, and to study whether nonprofit organizations should be required to
16 obtain a bond to fund unemployment benefits in the event that the nonprofit
17 organization ceases to operate while unemployment liability exists.

18 An act relating to unemployment compensation

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 21 V.S.A. § 342a is amended to read:

3 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

4 * * *

5 (c) ~~If after the investigation wages are found to be due, the Commissioner~~
6 ~~shall attempt to settle the matter between the employer and employee. If the~~
7 ~~attempt fails, After investigating the complaint,~~ the Commissioner shall issue a
8 written determination ~~and order for collection,~~ stating whether wages are due,
9 which shall specify the facts and the conclusions upon which the determination
10 is based. ~~The Department shall collect from the employer the amounts due and~~
11 ~~remit them to the employee.~~ Notice of the determination ~~and the order for~~
12 ~~collection to the employer~~ shall be provided to all interested parties by certified
13 mail or service, along with an order for collection in the event that the
14 Commissioner determines wages are due. If the Commissioner determines that
15 wages are due to the employee, the Commissioner shall attempt to settle the
16 matter between the employer and the employee before issuing a written
17 determination.

18 * * *

19 (e) Within 30 days after the date of the ~~collection order~~ determination, the
20 employer or employee may file an appeal from the determination to a
21 ~~departmental~~ Departmental administrative law judge. The appeal shall, after

1 notice to the employer and employee, be heard by the administrative law judge
2 within a reasonable time. The administrative law judge shall review the
3 complaint de novo, and after a hearing, the determination ~~and order for~~
4 ~~collection~~ shall be sustained, modified, or reversed by the administrative law
5 judge. Prompt notice in writing of the decision of the administrative law judge
6 and the reasons for it shall be given to all interested parties.

7 * * *

8 Sec. 2. 21 V.S.A. § 1330 is amended to read:

9 § 1330. ASSESSMENT PROVIDED

10 When any employer fails to pay any contributions or payments required
11 under this chapter the ~~commissioner~~ Commissioner shall make an assessment
12 of contributions against ~~such~~ the employer together with interest and penalty
13 thereon. If the employer fails to comply with the reporting requirements of
14 sections 1314a or 1322 of this chapter, or if the employer files an incorrect or
15 insufficient report pursuant to sections 1314a or 1322 of this chapter and fails
16 to file a corrected or sufficient report within 30 days after the Commissioner
17 provides written notice to the employer to correct or supplement the report, the
18 Commissioner shall make an assessment of the amount of the contribution due
19 from the employer and the amount of wages paid by the employer on the basis
20 of the information that is available to the Commissioner. After making the
21 assessment, ~~due notice shall be given thereof, by ordinary or certified mail, to~~

1 ~~the employer~~ the Commissioner shall provide the employer with notice of the
2 assessment by ordinary or certified mail and the assessment shall be final
3 unless the employer petitions for a hearing on ~~such~~ the assessment within the
4 time ~~hereinafter~~ specified by section 1331 of this chapter.

5 Sec. 3. 21 V.S.A. § 1344 is amended to read:

6 § 1344. DISQUALIFICATIONS

7 (a) An individual shall be disqualified for benefits:

8 * * *

9 (5) For any week with respect to which the individual is receiving or has
10 received remuneration in the form of:

11 (A) ~~wages~~ Wages in lieu of notice; ~~or.~~

12 (B) ~~vacation~~ Vacation pay ~~or holiday pay.~~

13 Vacation pay due at time of separation in accordance with a work
14 agreement (whether a formal contract or established custom) shall be allocated
15 to the period immediately following separation, or if due subsequent to
16 separation, it shall be allocated to the week in which due or the next following
17 week, and that number of weeks immediately following as required to equal
18 the total of the weeks of pay due. Any mutual agreement between the
19 employer and employee(s) (whether or not payment is made), allocating such
20 remuneration to any period during which work is performed, within four weeks
21 prior to the date of separation, shall not be valid for the purpose of determining

1 benefits imposed by this chapter were not fulfilled in his or her case or while
2 he or she was disqualified from receiving benefits, shall be liable for such
3 amount. Notice of determination in such cases shall specify that the person is
4 liable to repay to the Fund the amount of overpaid benefits, the basis of the
5 overpayment, and the week or weeks for which such benefits were paid. The
6 determination shall be made within ~~three~~ six years from the date of such
7 overpayment.

8 (b) Any person who receives remuneration described in subdivision
9 1344(a)(5)(~~A~~), (~~B~~), (~~C~~), (~~D~~), (~~E~~), or (~~F~~) of this title which is allocable in whole
10 or in part to prior weeks during which he or she received any amounts as
11 benefits under this chapter shall be liable for all ~~such~~ amounts of benefits or
12 those portions of ~~such~~ the amounts equal to the portions of ~~such~~ the
13 remuneration properly allocable to the weeks in question. Notice of
14 determination in such cases shall specify that the person is liable to repay to
15 the Fund the amount of overpaid benefits, the basis of the overpayment, and
16 the week or weeks for which ~~such~~ the benefits were paid. The determination
17 shall be made within ~~three~~ six years from the date of such overpayment or
18 within one year from the date of receipt of the remuneration, whichever period
19 is longer.

20 * * *

1 Sec. 5. STUDY; REPORT

2 The Commissioner of Labor shall study whether reimbursable employers
3 pursuant to 21 V.S.A. § 1321(c) should be required to procure and maintain a
4 bond to fund unemployment compensation benefit liability in the event the
5 employer dissolves or ceases to operate while liability still exists. The
6 Commissioner shall report to the House Committee on Commerce and
7 Economic Development and the Senate Committee on Economic
8 Development, Housing, and General Affairs regarding the findings of the
9 study and any recommendations for statutory changes on or before
10 November 15, 2015.

11 Sec. 6. EFFECTIVE DATE

12 This act shall take effect on July 1, 2015.