

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Commerce and Economic Development to which was
3 referred House Bill No. 306 entitled “An act relating to unemployment
4 compensation” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

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

8 § 342a. INVESTIGATION OF COMPLAINTS OF UNPAID WAGES

9 * * *

10 (c) ~~If after the investigation wages are found to be due, the Commissioner~~
11 ~~shall attempt to settle the matter between the employer and employee. If the~~
12 ~~attempt fails,~~ If after investigating the complaint, the Commissioner determines
13 that wages are due the employee, the Commissioner shall attempt to settle the
14 matter between the employer and the employee before issuing a written
15 determination. If the Commissioner is unable to settle the matter or determines
16 that wages are not due the employee, the Commissioner shall issue a written
17 determination and order for collection, stating whether wages are due, which
18 shall specify the facts and the conclusions upon which the determination is
19 based. ~~The Department shall collect from the employer the amounts due and~~
20 ~~remit them to the employee.~~ Notice of the determination ~~and the order for~~
21 ~~collection to the employer~~ shall be provided to all interested parties by certified

1 mail or service. If the Commissioner has determined that wages are due the
2 employee, the Commissioner shall issue an order for collection following the
3 resolution of any appeal filed pursuant to subsection (e) of this section or the
4 expiration of the appeal period set forth in that subsection.

5 * * *

6 (e) Within 30 days after the date of the ~~collection order~~ determination, the
7 employer or employee may file an appeal from the determination to a
8 departmental administrative law judge. The appeal shall, after notice to the
9 employer and employee, be heard by the administrative law judge within a
10 reasonable time. The administrative law judge shall review the complaint de
11 novo, and after a hearing, the determination ~~and order for collection~~ shall be
12 sustained, modified, or reversed by the administrative law judge. Prompt
13 notice in writing of the decision of the administrative law judge and the
14 reasons for it shall be given to all interested parties.

15 * * *

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

17 § 1330. ASSESSMENT PROVIDED

18 (a) When any employer fails to pay any contributions or payments required
19 under this chapter, the ~~commissioner~~ Commissioner shall make an assessment
20 of contributions against ~~such~~ the employer together with interest and penalty
21 thereon. After making the assessment, ~~due notice shall be given thereof, by~~

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

6 (b) If the employer fails to comply with the reporting requirements of
7 section 1314a or 1322 of this chapter, or if the employer files an incorrect or
8 insufficient report pursuant to section 1314a or 1322 of this chapter and fails to
9 file a corrected or sufficient report within 30 days after the Commissioner
10 provides written notice to the employer to correct or supplement the report, the
11 Commissioner shall, on the basis of the information that is available to the
12 Commissioner, make an assessment of the amount of the contribution due from
13 the employer together with interest and penalty.

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

15 § 1344. DISQUALIFICATIONS

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

17 * * *

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

20 (A) ~~wages~~ Wages in lieu of notice; ~~or,~~

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

1 Sec. 4. 21 V.S.A. § 1347 is amended to read:

2 § 1347. NONDISCLOSURE OR MISREPRESENTATION

3 (a) Any person who fails, without good cause, to make reasonable effort to
4 secure suitable work when directed to do so by the employment office or the
5 Commissioner and has received any amount as benefits under this chapter with
6 respect to weeks for which the person is determined to be ineligible for such
7 failure, and any person who by nondisclosure or misrepresentation by him or
8 her, or by another, of a material fact (irrespective of whether such
9 nondisclosure or misrepresentation was known or fraudulent) has received any
10 amount as benefits under this chapter while any conditions for the receipt of
11 benefits imposed by this chapter were not fulfilled in his or her case or while
12 he or she was disqualified from receiving benefits, shall be liable for such
13 amount. Notice of determination in such cases shall specify that the person is
14 liable to repay to the Fund the amount of overpaid benefits, the basis of the
15 overpayment, and the week or weeks for which such benefits were paid. The
16 determination shall be made within ~~three~~ six years from the date of such
17 overpayment.

18 (b) Any person who receives remuneration described in subdivision
19 1344(a)(5)(~~A~~), (~~B~~), (~~C~~), (~~D~~), (~~E~~), or (~~F~~) of this title which is allocable in whole
20 or in part to prior weeks during which he or she received any amounts as
21 benefits under this chapter shall be liable for all ~~such~~ amounts of benefits or

1 those portions of ~~such~~ the amounts equal to the portions of ~~such~~ the
2 remuneration properly allocable to the weeks in question. Notice of
3 determination in such cases shall specify that the person is liable to repay to
4 the Fund the amount of overpaid benefits, the basis of the overpayment, and
5 the week or weeks for which ~~such~~ the benefits were paid. The determination
6 shall be made within ~~three~~ six years from the date of such overpayment or
7 within one year from the date of receipt of the remuneration, whichever period
8 is longer.

9 * * *

10 Sec. 5. 21 V.S.A. § 1321 is amended to read:

11 § 1321. CONTRIBUTIONS; TAXABLE WAGE BASE CHANGES

12 * * *

13 (c)(1) Financing benefits paid to employees of nonprofit organizations.
14 Benefits paid to employees of nonprofit organizations shall be financed in
15 accordance with the provisions of this subsection. ~~For the purposes of~~ As used
16 in this subsection, a nonprofit organization is an organization (or group of
17 organizations) described in Section 501(c)(3) of the Internal Revenue Code of
18 the United States which is exempt from income tax under Section 501(a) of
19 such code.

20 (2) Liability for contributions and election of reimbursement. Any
21 nonprofit organization which, pursuant to subdivision 1301(5)(B)(i) of this

1 title, is, or becomes, subject to this chapter on or after January 1, 1972 shall
2 pay contributions under the provisions of this section, unless it elects, in
3 accordance with this subsection, to pay to the Commissioner, for the
4 Unemployment Fund, an amount equal to the amount of regular benefits and of
5 one-half of the extended benefits paid, that is attributable to service in the
6 employ of such nonprofit organization, to individuals for weeks of
7 unemployment which begin during the effective period of such election.

8 * * *

9 (C) Any nonprofit organization which makes an election in
10 accordance with subdivisions (c)(2)(A) and (B) of this section will continue to
11 be liable for payments in lieu of contributions until ~~it files~~ its election is
12 terminated by the Commissioner. An employer shall file with the
13 Commissioner a written notice ~~terminating its election~~ requesting that its
14 election be terminated not later than 30 days prior to the beginning of the
15 calendar year for which such termination ~~shall~~ would first be effective. The
16 Commissioner, in accordance with rules adopted by the Board, shall determine
17 whether the employer is eligible to terminate its election based on the
18 employer's anticipated contributions to the State Unemployment Fund and any
19 additional liability expected to be incurred by the Fund as a result of the
20 proposed termination. The Commissioner's determinations shall be subject to

1 reconsideration and to appeal and review in accordance with the provisions of
2 section 1337a of this title.

3 * * *

4 Sec. 6. STUDY; REPORT

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

14 Sec. 7. EFFECTIVE DATE

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

16
17
18 (Committee vote: _____)

19 _____

20 Representative _____

21 FOR THE COMMITTEE