

**SUMMARY OF H.306 AS PASSED BY THE HOUSE:**  
**AN ACT RELATING TO UNEMPLOYMENT COMPENSATION**

**Section 1: Amends 21 V.S.A. § 342a–Investigation of Complaints of Unpaid Wages**

- This section amends the subchapter governing Wages and Medium of Payment.
  - Unemployment insurance and wage laws are overseen by the same division within the Department of Labor.
- No changes to subsections (a) and (b).
- Amends subsection (c) to clarify the procedure for issuing a determination following the investigation of an unpaid wages complaint so that the statute reflects the Department’s practice. For clarity, the revision includes three subdivisions.
  - Subdivision (c)(1)(A) provides that if the investigation reveals that unpaid wages are due:
    - The Commissioner will first attempt to settle the dispute.
    - If the Commissioner cannot settle the dispute, the Commissioner will issue a determination stating that wages are due.
  - Subdivision (C)(1)(B) provides that if wages are not due, the Commissioner will issue a determination stating that they are not due.
  - Subdivision (C)(2) includes the existing notice requirement for a determination issued by the Commissioner.
    - In addition, the subdivision adds new language clarifying that a collection order for unpaid wages will not issue until after an appeal under subsection (e) is resolved or the appeal period has passed without an appeal.
- No changes to subsection (d).
- Amends subsection (e) to clarify that an employer or employee may appeal from a determination, rather than from a collection order.

**Section 2: Amends 21 V.S.A. § 1330–Assessment Provided**

- This section amends the provision permitting the Commissioner to issue an assessment for unpaid unemployment contributions to an employer.
- For clarity, the bill divides the section into two subsections.
- Subsection (a) includes changes to the existing statutory language for grammar and clarity.
- Subsection (b) adds new language to address a situation in which an employer has failed to properly report their wages and unemployment contributions.
  - The new language permits the Commissioner to make an assessment of the amount of the contribution due, along with any penalties and interest, based on the information available to the Commissioner.

- For reference:
  - 21 V.S.A. § 1314a governs quarterly wage reporting.
  - 21 V.S.A. § 1322 governs reporting of liability for unemployment contributions.

### **Section 3: Amends 21 V.S.A. § 1344–Disqualifications**

- Section 3 adds three additional types of compensation that will disqualify an individual from receiving unemployment benefits:
  - sick pay;
  - bereavement pay; and
  - wages paid by an individual’s employer for jury duty.
- Subdivision 1344(a)(5)(B) also clarifies that “holiday” refers to the State’s legal holidays, as defined by 1 V.S.A. § 317.

### **Section 4: Amends 21 V.S.A. § 1347–Nondisclosure or Misrepresentation**

- Section 4 extends the period for the Commissioner to issue a determination that an individual is liable to repay the Unemployment Trust Fund for overpaid benefits from 3 years to 6 years.
  - Subsection (a) address an instance where (1) an individual failed to make a reasonable effort to find work, and (2) the individual, or a third-party, failed to disclose or misrepresented a material fact that resulted in the payment of benefits.
  - Subsection (b) addresses an instance where an individual received benefits during a week in which they also received compensation that should have disqualified them from receiving benefits under § 1344(a)(5) (*amended in Section 3 of this bill*).

### **Section 5: Amends 21 V.S.A. § 1321–Contributions, Taxable Wage Base Changes**

- Section 5 amends the requirement for either a nonprofit organization (501(c)(3)) or a municipality, State higher education institution, or other governmental subdivision or instrumentality to discontinue their election to reimburse the Unemployment Trust Fund for benefits paid so that the entity may begin paying contributions instead.
  - Currently a nonprofit organization, municipality, State higher education institution, or other governmental subdivision may either pay regular unemployment contributions like any for-profit business, or they may elect to reimburse the Fund for unemployment benefits in lieu of paying regular contributions.
  - The current law permits an entity to terminate its election to reimburse for benefits paid by simply providing notice of the termination within 30 days of the start of a new calendar year. This can result in instances in which benefits are paid out from the Fund, but not reimbursed by the entity.
  - The current law does not give the Commissioner the express authority to review or deny an election.

- This bill proposes to amend the current law to allow the Commissioner to review an entity's decision to terminate its election to reimburse the Fund, and to deny the election if the change would result in the Fund incurring unreimbursed liability.
- The amendment to § 1321(c)(2)(C) to provide that a nonprofit may only terminate its election to reimburse the fund with the approval of the Commissioner. Under the amended language:
  - A nonprofit must request permission from the Commissioner in order to terminate its election.
  - The Commissioner must determine if the nonprofit is eligible to terminate its election based on whether the Fund will incur additional liability as a result of the election.
  - The Employment Security Board will adopt rules to guide the Commissioner's review of a request.
  - An entity may appeal the Commissioner's determination under 21 V.S.A. § 1337a.
- This section also amends § 1321(e)(3) to provide identical requirements and protections for municipalities, State higher education institutions, and other governmental subdivisions or instrumentalities that wish to terminate their election to reimburse the Fund.

#### **Section 6: Study; Report**

- Section 6 requires the Commissioner to study whether a nonprofit employer that elects to reimburse the Unemployment Fund for its benefits liability should be required to maintain a bond, escrow account, or other surety to guarantee its potential liability if it dissolves or ceases to operate while it is still liable for benefits.

#### **Section 7: Amends 21 V.S.A. § 1358–Unemployment Trust Fund; Establishment and Control**

- Section 7 amends the provision creating the State's Unemployment Trust Fund to make the name of the Fund consistent with what the Fund is actually called by the State and Federal government.

#### **Section 8: Statutory Revision**

- Section 8 directs Legislative Council to update the Vermont Statutes in accordance with Section 7 of this act so that the correct name of the Unemployment Trust Fund is used throughout.

#### **Section 9: Effective Date July 1, 2015**