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S.B. 302
134th General Assembly

Bill Analysis

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Version: As Passed by the Senate

Primary Sponsors: Sens. Hackett and Reineke

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SUMMARY

- Delays by two years, from 2023 to 2025, the date by which the Department of Job and Family Services (ODJFS) must begin to accept state income tax withholding requests from unemployment compensation recipients.
- Modifies the tax withholding information that ODJFS must report to the Tax Commissioner.
- Requires the ODJFS Director to request tax withholding information from an employer's tax returns when the employer fails to provide requested information within ten working days.
- Requires the ODJFS Director to enter data matching agreements with the Department of Rehabilitation and Correction and the Department of Health under which the DRC Director and ODH Director provide the ODJFS Director with current incarceration information and death records, respectively.
- Allows the Department of Public Safety to release its digitalized photographic records to ODJFS if the records are necessary for ODJFS to carry out its functions.
- Requires the ODJFS Director to establish a verification system that uses income tax records for any federal program administered by the Director in a manner similar to the Unemployment Compensation Law that provides money to an individual who loses income but is not eligible for traditional unemployment benefits.
- Requires the Unemployment Compensation Review Commission (UCRC) to issue an order that a hearing officer's decision constitutes the UCRC's final decision if a quorum of UCRC members cannot be obtained to consider a request for review.
- Makes changes related to scheduling evening telephone hearings at both the hearing officer and UCRC review appeal levels.

- Requires that the appeal of a contribution rate or rate revision by an appealing party who fails to appear at the hearing be dismissed, but allows the dismissal to be vacated if written notice of the hearing was not sent to the party's last known address, or if there was good cause for the failure to appear.
- Increases, from 52 to 208, the number of calendar weeks in which the ODJFS Director may issue a corrected determination when an error in a previous determination was typographical or clerical or was caused by an error in an employer's report or incorrect remuneration information received by the ODJFS Director.
- Prohibits the ODJFS Director from disbursing unemployment benefits by direct deposit to a financial institution unless the institution has a physical location in Ohio that the individual requesting direct deposits can access for the purpose of resolving disputes with the institution.
- Requires the ODJFS Director to establish and maintain an online process through which an employer can report that an applicant for or a recipient of unemployment benefits has failed or is failing to meet the nonmonetary requirements for benefit eligibility.
- Requires the ODJFS Director to prepare an annual report providing specified information about claims and a summary of updates or changes to the technology used to administer the unemployment compensation system.

DETAILED ANALYSIS

The bill makes two changes to the law governing state income tax withheld from a taxpayer's unemployment compensation benefits.

First, the bill delays, by two years, the date by which the Department of Job and Family Services (ODJFS) must begin to accept state income tax withholding requests from unemployment benefit recipients. Under continuing law, individuals may request that ODJFS withhold federal income tax on their benefits. In early 2021, the General Assembly expanded this law to allow individuals to request that state income tax be withheld from their benefits as well. Initially, the provision applied to benefits paid on or after January 1, 2022, but the General Assembly later extended that date to January 1, 2023. The bill further delays the provision by an additional two years, allowing recipients to make state tax withholding requests for benefits paid on or after January 1, 2025. The bill also delays, by two additional years – from December 1, 2022, to 2024 – the date by which ODJFS must notify current unemployment recipients that they will soon be eligible to make such requests.¹

¹ Section 8 of S.B. 18 of the 134th General Assembly, as subsequently amended by H.B. 110 of the 134th General Assembly (Sections 4 and 5 of the bill). This provision currently has a 90-day effective date, which means that the bill's delay of the withholding start date will take effect after the current date ODJFS is required to begin taking withholding requests (January 1, 2023).

Second, the bill modifies the withholding information that ODJFS must report to the Tax Commissioner. Under continuing law, once state tax withholding begins, ODJFS must report and remit withheld taxes on a monthly basis. Under current law, the report must identify each taxpayer from which tax was withheld, the amount of benefits the taxpayer received, and the amount of taxes withheld. At the beginning of each year, continuing law requires ODJFS to provide an information return to each taxpayer showing the total amount of taxes deducted from that taxpayer's benefits in the preceding year.

The bill removes the requirement that ODJFS's monthly reports include specific taxpayer withholding information, and instead requires that, annually, ODJFS forward to the Tax Commissioner a copy of each taxpayer information return issued for the preceding year. In addition, the bill requires ODJFS to file an annual return each January with the Tax Commissioner, showing the total amount of state taxes withheld in the preceding year and reconciling any withholdings not already remitted.²

Additional eligibility screening for unemployment benefits

Background – application process

The bill requires the ODJFS Director to check specific sources of data when determining an individual's eligibility for unemployment benefits. Determining eligibility is a two-phase process. In the first phase, an individual files an initial application for a determination of benefit rights, which generally examines whether the individual worked and earned enough to be eligible for benefits ("monetary eligibility"). On receiving the initial application, continuing law requires the ODJFS Director to promptly notify the individual's most recent employer and request the reason for the individual's unemployment. The ODJFS Director also may request additional information from the individual and any employers identified in the application. An employer must provide requested information within ten working days after the Director sends the request. The ODJFS Director determines whether an initial application is valid using the gathered information and any other available sources. This application is used to establish the individual's benefit year, which is the 52-week period during which the individual may file claims for benefits based on satisfying the monetary eligibility requirements.

After filing a valid initial application and establishing a benefit year, an individual enters the second phase of the process. In the second phase, the individual must file a claim for benefits each week the individual seeks benefits during the individual's benefit year. At this point of the process, the individual must satisfy "nonmonetary requirements." The nonmonetary requirements concern filing appropriate paperwork, the reason why the individual is unemployed, and work search requirements.³

² R.C. 5747.065.

³ R.C. 4141.28 and R.C. 4141.01 and 4141.29, not in the bill.

Income tax information to resolve initial applications

Under the bill, if an employer fails to provide requested information within ten working days, the ODJFS Director must provide to the Tax Commissioner the individual's and employer's names, addresses, taxpayer identification numbers if available, and any other information required by the Commissioner. The Commissioner must confirm to the ODJFS Director whether the individual was included on the most recent annual income tax withholding return filed by the employer. The Commissioner must inform the ODJFS Director if the Commissioner is unable to provide the requested information.⁴ These information sharing requirements apply to requests made on or after January 1, 2024.⁵

Unless an exception applies, continuing law specifies that any information in tax returns is confidential and may not be disclosed by an employee of the Department of Taxation or any other individual. The bill adds a new exception allowing Department employees to disclose information requested by the ODJFS Director for the purpose of determining whether an initial application is valid to the extent the information may be disclosed under federal law.⁶

Data matching agreements

The bill requires the ODJFS Director to enter data matching agreements with the Department of Rehabilitation and Correction (DRC) and the Director of Health (ODH). Under the agreement with the DRC Director, the DRC Director must provide the ODJFS Director with a searchable list, updated weekly, identifying all individuals committed to DRC institutions. DRC must share its records with the ODJFS Director to the extent necessary to effectuate the agreement. ODJFS has been in a contract with a private vendor since 2015 to do weekly national incarceration cross matching to identify potential unemployment claimant ineligibility. The Controlling Board approved the most recent renewal of the contract for FY 22 and FY 23 in June 2021. The current contract is 100% federally funded.⁷

Under the agreement with the ODH Director, the ODH Director must allow the ODJFS Director to match death records maintained by the ODH Director in accordance with continuing law.

The ODJFS Director must check the list provided by the DRC Director and the death records when determining the validity of an initial application or a claim for benefits.⁸

⁴ R.C. 4141.28(B).

⁵ Section 3.

⁶ R.C. 5703.21 and 5747.18.

⁷ Controlling Board Operating Request, [Controlling Board No. JFS0100604](#), which is available by searching for the term "Appriss" on the Office of Budget and Management's webpage for approved Controlling Board requests: <https://obm.ohio.gov/areas-of-interest/controlling-board/search-approved-requests>.

⁸ R.C. 4141.287, 4141.288, and 5120.212.

Under continuing law, an individual, among other requirements, must be available for suitable work to receive unemployment benefits. While a deceased individual cannot be available for suitable work, an individual in DRC custody may be available under certain circumstances. The availability determination depends on the facts and circumstances of each case.⁹

Department of Public Safety photo sharing

The bill allows the Department of Public Safety (DPS) to release its digitalized photographic records to ODJFS if the records are necessary for ODJFS to carry out its functions. Under current law, DPS may only release its digitized photographic records to the following entities:

- A state, local, or federal government agency for criminal justice purposes;
- Any court;
- The American Association of Motor Vehicle Administrators to allow state department of motor vehicles participating in the association's state-to-state verification services and digital image access and exchange program to use the records for identity verification purposes.¹⁰

Income verification system for federal benefit programs

The bill requires the ODJFS Director to establish a verification system for any federal program similar to the Unemployment Compensation Law administered by the Director that provides money to an individual who loses income but is not eligible for traditional benefits. The system must verify whether an individual has filed annual income tax returns using income tax records maintained by the Tax Commissioner.

The ODJFS Director must enter a data sharing agreement with the Commissioner allowing the ODJFS Director to provide to the Commissioner the name, Social Security number, and any other information required by the Commissioner for an individual applicant. The ODJFS Director may request information from the Commissioner regarding whether an individual has filed an annual income tax return. The ODJFS Director may request the information for the current taxable year or either of the two preceding taxable years.

On receiving the request, the Commissioner must provide the ODJFS Director with the requested information. If the Commissioner is unable to provide any portion of the requested information, the Commissioner must inform the ODJFS Director. These information sharing requirements apply to requests made on or after January 1, 2024.

⁹ R.C. 4141.29, not in the bill; and see, e.g., *Hageman v. Administrator, Ohio Bureau of Employment Services*, 1991 Ohio App. Lexis 1576, 1991 WL 53835 (6th Cir. 1991).

¹⁰ R.C. 4507.53.

The income verification system does not apply to a federal program for which income verification is not required.¹¹

As with the bill's provisions requiring the use of income tax information to confirm eligibility for traditional benefits (see "**Income tax information to resolve initial applications**," above), the bill specifies that the Commissioner or a Department of Taxation employee may disclose income tax information to the ODJFS Director, to the extent the information may be disclosed under federal law, when the information is used to verify an individual's eligibility for a federal program covered by the system.¹²

Unemployment Compensation Review Commission hearings

The bill requires the Unemployment Compensation Review Commission (UCRC) to issue an order that a hearing officer's decision constitutes the UCRC's final decision if a quorum of its members cannot be obtained to consider a request for review. This is an exemption to the continuing law requirement that the UCRC must have a quorum for an action of the UCRC to be valid.

The UCRC is the appellate body that hears appeals of hearing officer determinations of benefit rights or determinations of claims for benefits. Under continuing law, the UCRC has three members, and two members constitute a quorum.¹³ Final decisions from the UCRC are appealable in court.¹⁴

The bill requires, at both the hearing officer and UCRC review appeal levels, that hearings be held during normal business hours unless the UCRC grants a request for an evening telephone hearing. The bill requires the UCRC to grant or deny a request for an evening telephone hearing if an interested party who is regularly employed throughout normal business hours requests an evening telephone hearing. Current law requires the UCRC to schedule an evening hearing during hours that a party is not employed if the party is employed during the day and makes such a request. Under continuing law, if a conflict concerning a request for an evening hearing and an in-person hearing arises, the UCRC must schedule the hearing to be an evening telephone hearing.¹⁵

Unemployment contribution rate appeals

The bill requires that the appeal of a contribution rate or rate revision by an appealing party who fails to appear at the hearing be dismissed. The dismissal may be vacated if written notice of the hearing was not sent to the party's last known address, or if there was good cause

¹¹ R.C. 4141.163 and Section 3.

¹² R.C. 5703.21 and 5747.18.

¹³ R.C. 4141.06 and 4141.281(C)(5).

¹⁴ R.C. 4141.282, not in the bill.

¹⁵ R.C. 4141.281(D)(4).

for the failure to appear. This is the same requirement that applies to an appeal of a benefit right determination when the appealing party fails to appear under current law.¹⁶

Application and determination process

The bill increases, from 52 to 208, the number of calendar weeks in which the ODJFS Director may issue a corrected determination when an error in a previous determination was typographical or clerical or was caused by an error in an employer's report or incorrect remuneration information received by the ODJFS Director.¹⁷

Direct deposit of unemployment benefits

The bill prohibits the ODJFS Director from disbursing unemployment benefits by direct deposit to a financial institution unless the institution has a physical location in Ohio that the individual requesting direct deposits can access for the purpose of resolving disputes with the institution. It is not clear how the Director will determine whether a financial institution has a physical location that meets the requirement.

The bill specifies that it does not prohibit the Director from establishing other systems for disbursing benefits.¹⁸

Employer complaint system

The bill requires the ODJFS Director to establish and maintain a process for an employer to report that an applicant for or a recipient of benefits has failed or is failing to meet any of the nonmonetary eligibility requirements. The process must allow the employer to make a complaint through a conspicuous internet link located on the Department of Job and Family Services website. The ODJFS Director must review all complaints received through the process in a timely manner.¹⁹

Annual report

Beginning on the last day of February that occurs after the bill's effective date, and annually thereafter, the ODJFS Director must prepare a report that includes all of the following information with respect to the calendar year covered by the report:

- The number of calls received from applicants for and recipients of unemployment benefits at all call centers operated by the ODJFS Director;
- The total number of claims for benefits filed;
- The number of claims for benefits marked as potentially fraudulent;

¹⁶ R.C. 4141.26, by reference to R.C. 4141.281(D).

¹⁷ R.C. 4141.28(G).

¹⁸ R.C. 4141.302.

¹⁹ R.C. 4141.34.

- The number of complaints submitted by applicants for and recipients of benefits through the uniform complaint process maintained by the ODJFS Director under continuing law;
- A summary of updates or changes to the technology the ODJFS Director uses to administer the unemployment compensation system.

The ODJFS Director must submit the report to the Speaker of the House of Representatives, the President of the Senate, the Governor, and the Unemployment Compensation Modernization and Improvement Council.²⁰

HISTORY

Action	Date
Introduced	03-01-22
Reported, S. Insurance	11-30-22
Passed Senate (31-0)	11-30-22

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²⁰ R.C. 4141.60.