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CHAPTER 205. REIMBURSEMENTS

Subchapter A. Election to Become Reimbursing Employer

Sec. 205.001. Reimbursements or Contributions by Governmental Entity

(a) A state, a political subdivision of a state, an Indian tribe, or an instrumentality of a state, political subdivision of a state, or Indian tribe may elect to pay reimbursements for benefits instead of contributions.

(b) The election must be made not later than the 45th day after the date on which notice that an employer is subject to this subtitle is mailed to the employer.

(c) The election is effective January 1 of the year in which the employer becomes subject to this subtitle.

(d) An election is effective for at least two calendar years and may be terminated after the minimum period by filing with the commission not later than December 1 a written request for termination. The termination is effective January 1 of the following year.

Sec. 205.002. Election by Nonprofit Organization

(a) A nonprofit organization that is described by Section 201.023 or a group of those organizations subject to this subtitle may elect to pay reimbursements for benefits instead of contributions.

(b) An election under this section must be made not later than the 45th day after the date on which notice that the employer is subject to this subtitle is mailed to the employer.

(c) The election is effective January 1 of the year in which the employer becomes subject to this subtitle.

(d) The election is effective for at least two calendar years and may not be terminated before the expiration of that period, except as provided in Sections 205.003 and 205.031.

(e) An election may be withdrawn by written application by the employer filed with the commission not later than December 1 before the year for which the employer wishes to change the employer's method of payment. The method of payment may be changed again if a timely application is filed after a minimum of two calendar years.

(f) An election to pay reimbursements terminates at any time coverage terminates under this subtitle. An employer whose election terminates because of termination of coverage, on again becoming an employer subject to this subtitle, may reelect to pay reimbursements.

Sec. 205.003. Commission Termination of Election

(a) The commission may terminate an employer's election to make reimbursements if the employer is delinquent in making reimbursements under this chapter.

(b) A termination under this section takes effect at the beginning of the next tax year and remains in effect for that tax year and the following tax year.

Sec. 205.004. Election by Indian Tribe

(a) An Indian tribe that elects to make reimbursements for benefits instead of contributions shall make the election under this chapter in the same manner and subject to the same conditions as the state or a political subdivision of the state.

(b) An Indian tribe that makes an election under this chapter shall determine whether the election is for the tribe as a whole, individual tribal units, or a combination of individual tribal units.

(c) An Indian tribe that makes an election under this chapter shall pay the full amount of benefits attributable to service performed in the employ of the Indian tribe on the same schedule as other employing units that have elected to make reimbursements for benefits instead of contributions.

(d) An Indian tribe that fails to make a required payment, including payment of a penalty and interest, before the 91st day after receiving notice of the payment loses the option to pay reimbursements instead of contributions for the following tax year unless the commission receives payment in full before the date contribution rates for that tax year are computed

(e) An Indian tribe that loses the option to pay reimbursements instead of contributions due to late payments under Subsection (d) may resume that option if, after the expiration of one year following the date of losing the option, the Indian tribe has timely paid all contributions and no contributions, payments instead of contributions for benefits paid, penalties, or interest remain outstanding.

Subchapter B. General Provisions

Sec. 205.011. Applicability of Subtitle; Waiver by Reimbursing Employer

(a) A reimbursing employer is entitled to the rights and privileges and subject to the duties and responsibilities of all provisions of this subtitle other than the following provisions of Chapter 204, which do not apply to a reimbursing employer:

(1) Sections 204.001-204.008;

(2) Subchapters B, C, and D of Chapter 204; and

(3) Sections 204.081-204.085.

(b) An election to become a reimbursing employer is a waiver of the rights afforded under Chapter 204 that did not apply to a reimbursing employer.

Sec. 205.012. Payment of Reimbursement

A reimbursing employer shall pay a reimbursement to the commission in accordance with this chapter and rules adopted by the commission.

Sec. 205.0125. Exception from Duty to Pay Reimbursement

(a) Notwithstanding any other provision of this chapter, a reimbursing employer is not liable for paying a reimbursement for benefits paid to an individual, regardless of whether the employer was named as the individual's last work, if the individual's separation from work with the employer resulted from the individual:

(1) being discharged for misconduct; or

(2) voluntarily leaving work without good cause connected with the individual's work.

(b) A reimbursing employer may contest reimbursements billed to the employer by the commission in violation of this section using the dispute resolution procedures prescribed by Chapter 212 and rules adopted under that chapter.

Sec. 205.013. Billing; Amount of Reimbursements

(a) A reimbursing employer shall pay to the commission an amount equal to the regular benefits plus, except as provided by Subsection (c), one-half of the extended benefits paid during that quarter that are attributable to service in the employ of the employer.

(b) At the end of each calendar quarter the commission shall bill each reimbursing employer for the amount described under Subsection (a).

(c) A state, a political subdivision of a state, or any instrumentality of any one or more states or political subdivisions of a state that is wholly owned by one or more states or political subdivisions of a state that is a reimbursing employer shall pay 100 percent of the extended benefits paid on benefit wage credits earned from that employer.

(d) If a reimbursing employer pays a reimbursement to the commission for benefits paid to a claimant that are not in accordance with the final determination or decision under this subtitle, the employer is not entitled to a refund of, or credit for, the amount paid by the employer to the commission unless the employer has complied with the requirements of Section 208.004 with respect to the claimant.

Sec. 205.014. Proportionate Allocation of Benefit Costs: More Than One Employer and at Least One Reimbursing Employer

If benefits to an individual are computed on benefit wage credits earned from more than one employer, at least one of whom is a reimbursing employer, the amount payable to the compensation fund by each reimbursing employer is the amount that bears the same ratio to the total benefits paid to the individual as the total base period benefit wage credits for the individual from that employer bears to the total base period benefit wage credits for the individual from all employers.

Sec. 205.015. Continued Liability for Reimbursement

An employer who has elected reimbursement under Section 205.001 or 205.002 shall pay reimbursements for benefits that are attributable to service in the employ of the employer during the period of the election, even if the employer is no longer a reimbursing employer when the benefits are paid.

Sec. 205.016. Collection of Delinquent Reimbursement; Effect of Failure to Submit Certain Reports

A reimbursing employer who fails to pay a reimbursement on the date on which the reimbursement is due, or who fails to submit records and reports, as prescribed by the commission, is subject to the following in the same manner as an employer who does not pay a contribution when due:

(1) Sections 213.004, 213.005, 213.006, 213.008, and 213.009;

(2) Subchapters B, C, D, and E of Chapter 213, other than Section 213.058; and

(3) Section 204.086.

Sec. 205.017. Delinquent Governmental Employers

The commission shall notify the comptroller in writing of the name of a governmental employer that is delinquent in payment of reimbursements under this subtitle and the amount of the delinquency. On receipt of the notice, the comptroller shall pay the amount of the delinquency to the commission from any funds that otherwise would be due from the state to the delinquent governmental employer.

Sec. 205.018. Payment of Benefits from Compensation Fund; No Effect on Replenishment Ratio

Benefits computed on wages earned from a reimbursing employer and reimbursements for the benefits may not be used in computing the replenishment ratio under Section 204.045.

Sec. 205.019. Reimbursement From Non-Treasury Funds

(a) A branch, department or other instrumentality of this state that reimburses the commission with funds that are held outside the state treasury shall reimburse the commission by writing

a check to the commission for deposit into the appropriate unemployment compensation account. A deposit under this section shall be made not later than the 30th day after the date the instrumentality receives the commission's statement of amounts due.

[NOTE: S.B. 59, 83rd Legislature, repealed Subsection 205.019(b)]

(c) A branch, department, or other instrumentality affected by this section may allocate appropriate funds to a revolving account on its books to receive contributions from funds other than general revenue funds, based on an assessment it determines to be appropriate for the purpose of reimbursing the appropriate unemployment compensation account for benefits paid.

(d) The state auditor may review the reimbursement of funds for compliance by the affected entities with this section, subject to a risk assessment performed by the state auditor and to the legislative audit committee's approval of including the review in the audit plan under Section 321.013, Government Code.

Subchapter C. Group Account

Sec. 205.021. Approval of Group Account; Effective Date

(a) On approval of an application submitted by two or more reimbursing employers, the commission shall establish a group account for the employers to share the cost of benefits that are attributable to service in the employ of the employers.

(b) The application must identify and authorize a group representative to act as the group's agent for the purpose of this subchapter.

(c) The group account takes effect at the beginning of the calendar quarter in which the commission received the application. The commission shall notify the group's representative of the effective date of the account.

Sec. 205.022. Duration and Termination of Group Account

(a) A group account must remain in effect for not less than two years.

(b) After two years, the account may be terminated at the discretion of the commission or on application by the group. The termination is effective January 1 of the next year.

Sec. 205.023. Group Member's Reimbursement Amount

On establishment of a group account, each member of the group is liable for reimbursements for each calendar quarter in the amount that bears the same ratio to the total benefits paid in the quarter attributable to service in the employ of all members of the group as the total wages paid for service in

employment in the quarter by the member bears to the total wages paid in the quarter by all members of the group.

Sec. 205.024. Reports and Records

Each member of a group shall keep accurate employment records and submit reports as required by the commission relating to persons employed by the member.

Sec. 205.025. Commission Rules

The commission shall as necessary adopt rules on:

(1) an application for the establishment, maintenance, and termination of a group account authorized by this subchapter;

(2) the type of records to be kept and reports to be submitted by a group of employers;

(3) the addition of a new member to a group;

(4) the withdrawal of an active member from a group; and

(5) the determination of the amount of reimbursements payable under this subchapter by members of a group and the time and manner of those payments.

Subchapter D. Bonds and Other Safeguards

Sec. 205.031. Bond

(a) The commission may require a reimbursing employer or group of reimbursing employers to execute and file with the commission a surety bond approved by the commission.

(b) The amount of the bond shall be determined in accordance with rules adopted by the commission.

(c) The commission may require adjustments to a filed bond as it considers appropriate.

(d) If a reimbursing employer covered by a bond fails to pay the full amount of reimbursements when due, together with any applicable interest and penalties required under this subtitle, the surety is liable on the bond, to the extent of the bond, as though the surety were the employer.

(e) If a reimbursing employer fails to execute and file bond when directed to do so by the commission, the commission may terminate the employer's election to make reimbursements effective at the beginning of the next tax year. The termination remains effective for that tax year and the following tax year.

Sec. 205.032. Additional Safeguards

The commission may provide additional safeguards as necessary to ensure that a reimbursing employer pays the reimbursements required under Subchapters B and C.

Subchapter E. State Elections

Sec. 205.041. State Election to be Reimbursing Employer

(a) This state is a reimbursing employer subject to this subtitle for all services performed in the employ of:

(1) this state;

(2) a branch or department of this state; or

(3) an instrumentality of this state that is not otherwise an employer.

(b) All services performed in the employ of this state, a branch or department of this state, or an instrumentality of this state are employment.

(c) Subsection (a) does not apply to a political subdivision of this state.

(d) The commission shall provide to each state agency an annual statement showing the benefits paid by the commission during the year that are attributable to that agency.

Sec. 205.042. Coverage of State Employees Working Outside State

If the commission is unable to execute a reciprocal agreement under Chapter 211 to cover an employee of this state who works outside the state, the employing agency shall become a reimbursing employer if permitted by the law of the state in which the employee works. If the agency is not permitted to be a reimbursing employer, the agency may pay the required contribution for that employee from funds available for that purpose.