

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1082  
(Industry, Business and Labor Committee)  
(At the request of Job Service North Dakota)

AN ACT to amend and reenact section 52-04-10, subsection 3 of section 52-04-11.1, and section 52-04-17 of the North Dakota Century Code, relating to appeals from employer tax rate notices, administrative hearings concerning corporate officer personal liability, and questions of employer status for unemployment compensation insurance purposes.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1. AMENDMENT.** Section 52-04-10 of the North Dakota Century Code is amended and reenacted as follows:

**52-04-10. Contributions for ensuing year - Notification - Review.** The bureau shall promptly make a determination and notify each employer of the employer's rate of contributions as determined for each ensuing year by the end of the first full week of December, but not later than December tenth, of the preceding year. ~~Such~~ The rate of contributions must be computed pursuant to the provisions of this chapter. ~~Such~~ The determination becomes conclusive and binding upon the employer unless, within fifteen calendar days after the mailing of the notice thereof to the employer's last-known address, or in the absence of the mailing, within fifteen calendar days after the delivery of such notice, the employer files an ~~application for review and redetermination, setting forth the employer's reasons therefor.~~ If the bureau grants such review, the employer must be notified promptly thereof and must be granted an opportunity for a hearing, but a written appeal of the determination. However, no employer shall have standing, in any proceeding involving the employer's rate of contributions or contribution liability, to contest the chargeability to the employer's account of any benefits paid in accordance with a determination, redetermination, or decision pursuant to the provisions of chapter 52-06, except upon the ground that the services on the basis of which such benefits were found to be chargeable did not constitute ~~the~~ services performed in employment for the employer and only in the event that the employer was not a party to such determination, redetermination, or decision or to any other administrative proceeding ~~under this chapter~~ in which the character of these services was determined. For purposes of this section, an employer was not a party to ~~the determination~~ any such proceeding if notice of the determination, redetermination, or decision and the employer's right to appeal the determination, redetermination, or decision was not mailed or personally delivered to the employer. ~~The employer must be notified promptly of the bureau's denial of the employer's application, or of the bureau's redetermination, both of which become final unless within thirty days after the mailing of notice thereof to the employer's last known address or in the absence of mailing, within thirty days after delivery of such notice, a petition for judicial review is filed in the district court of Burleigh County. Any proceeding before the court under the terms of this section must be had in accordance with the provisions in chapter 52-06 with respect to court review.~~

**SECTION 2. AMENDMENT.** Subsection 3 of section 52-04-11.1 of the North Dakota Century Code is amended and reenacted as follows:

3. ~~After notice and opportunity for a hearing, the~~ The unemployment compensation insurance division shall make a written determination as to the personal liability of a corporate officer or employee under this section. ~~A hearing must be requested within twelve days from the date of mailing of the notice.~~ The determination is final unless the person found to be personally liable ~~requests review by the bureau~~ files a written appeal of the determination within fifteen calendar days after mailing of the notice of determination to the person's last-known address.

**SECTION 3. AMENDMENT.** Section 52-04-17 of the North Dakota Century Code is amended and reenacted as follows:

**52-04-17. Administrative determinations of coverage.** ~~The job unemployment insurance division may, upon its own motion or upon application of an employing unit, and after notice and opportunity for hearing, make findings of fact and on the basis thereof, determinations may make a written determination with respect to whether an employing unit constitutes an employer and, or whether services performed for or in connection with the business of an employing unit constitute employment, or both such determinations. Appeal from any such determination may be taken to the bureau within fifteen days after the mailing of notice of the findings and determination to the employing unit, or, in the absence of mailing, within fifteen days after the delivery of the notice. Proceedings in such appeals must be in the same manner as in appeals from a decision of an appeal tribunal. A determination of the division, in the absence of appeal therefrom, and a determination of the bureau upon an appeal, together with the record of the proceeding under this section are admissible in any subsequent proceeding under the North Dakota Unemployment Compensation Law, and if supported by substantial evidence and in the absence of fraud are conclusive, except as to errors of law, upon any employing unit which was a party to the proceeding under this section. A determination made pursuant to this section is final unless the employing unit, within fifteen calendar days of the date of mailing of the determination, files a written appeal with job service North Dakota.~~

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Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1082.

House Vote:      Yeas    90      Nays    0      Absent    4

Senate Vote:    Yeas    45      Nays    0      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State