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RWH 4/9/08

P.L. 2007, CHAPTER 34, *approved January 29, 2007*
Senate, No. 1646

1 AN ACT concerning unemployment compensation benefits and the
2 rollover of certain retirement funds and amending P.L.1980,
3 c.13.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1980, c.13 (C.43:21-5a) is amended to read
9 as follows:

10 1. The amount of benefits payable to an individual for any
11 week which begins in a period with respect to which such
12 individual is receiving a governmental or other pension, retirement
13 or retired pay, annuity, or other similar periodic payment which is
14 based on the previous work of such individual shall be reduced, but
15 not below zero, by an amount equal to the amount of such pension,
16 retirement or retired pay, annuity, or other payment, which is
17 reasonably attributable to such week; provided that such reduced
18 weekly benefit rate shall be computed to the next lower multiple of
19 \$1.00 if not already a multiple thereof and that any such reduction
20 in the weekly benefit rate shall reduce the maximum total benefits
21 of the individual during the benefit year; provided further that, if
22 the provisions of the federal Unemployment Tax Act permit, the
23 Commissioner of Labor and Workforce Development may prescribe
24 in regulations which are consistent with the federal Unemployment
25 Tax Act **[either or both]** any of the following:

26 a. The requirements of this section shall only apply in the case of
27 a pension, retirement or retired pay, annuity, or other similar
28 periodic payment under a plan maintained or contributed to by a
29 base period or chargeable employer as determined under the chapter
30 to which this act is a supplement;

31 b. The amount of any such reduction shall be determined taking
32 into account contributions made by the individual for the pension,
33 retirement or retired pay, annuity or other similar periodic
34 payment**[.]**;

35 c. An individual shall not have his benefits reduced where
36 there has been a transfer of an eligible rollover distribution from a
37 qualified trust to an eligible retirement plan, as defined in section
38 402(c)(8) of the federal Internal Revenue Code of 1986, 26
39 U.S.C.S.402(c)(8), provided that, pursuant to that section, the
40 transfer of payments are made within 60 days of receipt. If,
41 however, any distribution from the qualified trust is made which is
42 subject to federal income tax, then unemployment benefits for
43 which the base year earnings include pay from the employer who
44 paid into the qualified trust shall be reduced by the amount of the

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 distribution if otherwise required by section 3304(a)(15) of the
2 Internal Revenue Code of 1986, 26 U.S.C.S.3304(a)(15).

3 The amount of benefits payable to an individual who is
4 involuntarily and permanently separated from employment prior to
5 the date at which the individual may retire with full pension rights
6 shall not be reduced pursuant to this section because the individual
7 receives a lump sum payment in lieu of periodic pension, retirement
8 or annuity payments, except that the benefits payable to the
9 individual may be reduced during the week in which the individual
10 receives the lump sum payment.

11 (cf: P.L.1993, c.330, s.1)

12

13 2. This act shall take effect immediately.

14

15

16

STATEMENT

17

18 This bill amends the unemployment compensation law to allow
19 an individual to rollover certain retirement funds without being
20 penalized by a reduction in the individual's unemployment
21 compensation.

22 The federal government currently provides that a rollover from a
23 qualified trust into an eligible retirement plan is not subject to
24 federal income tax because it is not considered "received" by an
25 individual for purposes of the federal Unemployment Tax Act. As
26 the benefits are not considered to be received by the individual, the
27 State is not required to reduce an individual's unemployment
28 compensation as a result of such a rollover.

29 A recent New Jersey Appellate Division case, Giesler v. Board
30 of Review, Department of Labor and Bell Atlantic, New Jersey,
31 Inc., changed that rule by treating a rollover the same as a lump
32 sum pension distribution. That is, if an individual is involuntarily
33 and permanently separated from employment prior to the date at
34 which the individual may retire with full pension rights, the pension
35 reduction can be assigned to the week in which the individual
36 receives the lump sum payment, or if the individual chooses, the
37 amount of the reduction can be prorated. Therefore, pension
38 distributions that are rolled over into a qualified retirement account
39 will no longer result in "no reduction" to unemployment benefits.

40 This bill amends the law to allow an individual to rollover
41 certain retirement funds without a reduction of unemployment
42 benefits. Under the bill, for example, an individual's
43 unemployment benefits would not be penalized if the individual
44 opted to roll their 401K plan into an IRA account.

45

46

47

48 Concerns unemployment compensation benefits and the rollover
49 of certain retirement funds.

SENATE, No. 1646

STATE OF NEW JERSEY 212th LEGISLATURE

INTRODUCED MARCH 13, 2006

Sponsored by:

Senator BARBARA BUONO

District 18 (Middlesex)

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

Co-Sponsored by:

Senators Adler, Vitale and Coniglio

SYNOPSIS

Concerns unemployment compensation benefits and the rollover of certain retirement funds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/15/2006)

S1646 BUONO

2

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2 rollover of certain retirement funds and amending P.L.1980,
3 c.13.

4
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13 or retired pay, annuity, or other similar periodic payment which is
14 based on the previous work of such individual shall be reduced, but
15 not below zero, by an amount equal to the amount of such pension,
16 retirement or retired pay, annuity, or other payment, which is
17 reasonably attributable to such week; provided that such reduced
18 weekly benefit rate shall be computed to the next lower multiple of
19 \$1.00 if not already a multiple thereof and that any such reduction
20 in the weekly benefit rate shall reduce the maximum total benefits
21 of the individual during the benefit year; provided further that, if
22 the provisions of the federal Unemployment Tax Act permit, the
23 Commissioner of Labor and Workforce Development may prescribe
24 in regulations which are consistent with the federal Unemployment
25 Tax Act **[either or both]** any of the following:

26 a. The requirements of this section shall only apply in the case of
27 a pension, retirement or retired pay, annuity, or other similar
28 periodic payment under a plan maintained or contributed to by a
29 base period or chargeable employer as determined under the chapter
30 to which this act is a supplement;

31 b. The amount of any such reduction shall be determined taking
32 into account contributions made by the individual for the pension,
33 retirement or retired pay, annuity or other similar periodic
34 payment**[.]**;

35 c. An individual shall not have his benefits reduced where
36 there has been a transfer of an eligible rollover distribution from a
37 qualified trust to an eligible retirement plan, as defined in section
38 402(c)(8) of the federal Internal Revenue Code of 1986, 26
39 U.S.C.S.402(c)(8), provided that, pursuant to that section, the
40 transfer of payments are made within 60 days of receipt. If,
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5 the date at which the individual may retire with full pension rights
6 shall not be reduced pursuant to this section because the individual
7 receives a lump sum payment in lieu of periodic pension, retirement
8 or annuity payments, except that the benefits payable to the
9 individual may be reduced during the week in which the individual
10 receives the lump sum payment.

11 (cf: P.L.1993, c.330, s.1)

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13 2. This act shall take effect immediately.

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STATEMENT

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18 This bill amends the unemployment compensation law to allow
19 an individual to rollover certain retirement funds without being
20 penalized by a reduction in the individual's unemployment
21 compensation.

22 The federal government currently provides that a rollover from a
23 qualified trust into an eligible retirement plan is not subject to
24 federal income tax because it is not considered "received" by an
25 individual for purposes of the federal Unemployment Tax Act. As
26 the benefits are not considered to be received by the individual, the
27 State is not required to reduce an individual's unemployment
28 compensation as a result of such a rollover.

29 A recent New Jersey Appellate Division case, Giesler v. Board
30 of Review, Department of Labor and Bell Atlantic, New Jersey,
31 Inc., changed that rule by treating a rollover the same as a lump
32 sum pension distribution. That is, if an individual is involuntarily
33 and permanently separated from employment prior to the date at
34 which the individual may retire with full pension rights, the pension
35 reduction can be assigned to the week in which the individual
36 receives the lump sum payment, or if the individual chooses, the
37 amount of the reduction can be prorated. Therefore, pension
38 distributions that are rolled over into a qualified retirement account
39 will no longer result in "no reduction" to unemployment benefits.

40 This bill amends the law to allow an individual to rollover
41 certain retirement funds without a reduction of unemployment
42 benefits. Under the bill, for example, an individual's
43 unemployment benefits would not be penalized if the individual
44 opted to roll their 401K plan into an IRA account.

SENATE LABOR COMMITTEE

STATEMENT TO

SENATE, No. 1646

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2006

The Senate Labor Committee reports favorably Senate Bill No. 1646.

This bill amends the unemployment compensation law to allow an individual to rollover certain retirement funds without being penalized by a reduction in the individual's unemployment compensation.

The federal government currently provides that a rollover from a qualified trust into an eligible retirement plan is not subject to federal income tax because it is not considered "received" by an individual for purposes of the federal Unemployment Tax Act. As the benefits are not considered to be received by the individual, the State is not required to reduce an individual's unemployment compensation as a result of such a rollover.

A recent New Jersey Appellate Division case, Giesler v. Board of Review, Department of Labor and Bell Atlantic, New Jersey, Inc., changed that rule by treating a rollover the same as a lump sum pension distribution. That is, if an individual is involuntarily and permanently separated from employment prior to the date at which the individual may retire with full pension rights, the pension reduction can be assigned to the week in which the individual receives the lump sum payment, or if the individual chooses, the amount of the reduction can be prorated. Therefore, pension distributions that are rolled over into a qualified retirement account will no longer result in "no reduction" to unemployment benefits.

This bill amends the law to allow an individual to rollover certain retirement funds without a reduction of unemployment benefits. Under the bill, for example, an individual's unemployment benefits would not be penalized if the individual opted to roll their 401K plan into an IRA account.

ASSEMBLY, No. 2912

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MARCH 21, 2006

Sponsored by:

Assemblyman JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Assemblyman VINCENT PRIETO

District 32 (Bergen and Hudson)

SYNOPSIS

Concerns unemployment compensation benefits and the rollover of certain retirement funds.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/19/2006)

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18 weekly benefit rate shall be computed to the next lower multiple of
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ASSEMBLY LABOR COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2912

STATE OF NEW JERSEY

DATED: MAY 15, 2006

The Assembly Labor Committee reports favorably Assembly Bill No.2912.

This bill amends the unemployment compensation law to allow an individual to rollover certain retirement funds without being penalized by a reduction in the individual's unemployment compensation.

The federal government currently provides that a rollover from a qualified trust into an eligible retirement plan is not subject to federal income tax because it is not considered "received" by an individual for purposes of the federal Unemployment Tax Act. As the benefits are not considered to be received by the individual, the State is not required to reduce an individual's unemployment compensation as a result of such a rollover.

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This bill amends the law to allow an individual to rollover certain retirement funds without a reduction of unemployment benefits. Under the bill, for example, an individual's unemployment benefits would not be penalized if the individual opted to roll their 401K plan into an IRA account.