

ORDINANCE NO. 2

AN ORDINANCE TO ESTABLISH AN UNEMPLOYMENT COMPENSATION SYSTEM

WHEREAS, the State of Michigan by Act No. 104 of the Public Acts of 1974, has required unemployment compensation coverage for services performed for political subdivisions and,

WHEREAS, the Affairs Committee and Finance Committee were authorized by the Board of Commissioners on November 21, 1974 to determine which option the County of Berrien would take in complying with Act No. 104 of the Public Acts of 1974 and,

WHEREAS, it has been determined that the County of Berrien will enact a local unemployment compensation system which is equivalent to that provided under the Michigan Employment Security Act.

NOW, THEREFORE, BE IT HEREBY ORDAINED, by this Board of Commissioners of the County of Berrien as follows:

SECTION 1. UNEMPLOYMENT COMPENSATION SYSTEM

There is hereby established an unemployment compensation system and benefit plan for employees of the County of Berrien to be administered by the Personnel Department of the County of Berrien. This plan is established pursuant to Act No. 170 of the Public Acts of 1958 as amended of the State of Michigan.

SECTION 2. DEFINITIONS

“Average Weekly Wage” with respect to a base period of employment, shall be the amount determined by dividing total wages for credit weeks earned by the number of such credit weeks chargeable to the County of Berrien as employer.

“Base Period” means the period of 52 consecutive calendar weeks ending with the day immediately preceding the first day of an individual’s benefit year.

“Benefit Year” with respect to any individual means the period of 52 consecutive calendar weeks beginning with the first calendar week with respect to which the individual, who does not already have a benefit year in effect, files a claim for benefits under this plan provided that the individual has earned wages of at least \$25.01 in each of 14 or more calendar weeks within the Base Period. Such weeks are called “Credit Weeks”.

“Benefits” means the money payments payable to an eligible and qualified individual, as provided in this plan, with respect to unemployment.

“Personnel Director” means the Personnel Director of the County of Berrien.

“Unemployed”, an individual shall be deemed unemployed with respect to any week during which he performs no services and with respect to which no remuneration is payable to him, or with respect to any week of less than full-time work if the remuneration payable to him is less than his weekly benefit rate.

“Wages” means remuneration paid for employment as defined in the Michigan Employment Security Act.

SECTION 3. BENEFIT RATES

Benefit payments to eligible employees shall begin with the effective date of unemployment and shall be calculated according to the following rules:

(a) The weekly benefit rate shall be determined as set forth in the Michigan Employment Security Act Weekly Benefit Rate Table in effect at the time an employee becomes unemployed.

(b) The dependency class category of an unemployed person shall be determined as stipulated and provided by the Michigan Employment Security Act. A dependent shall be defined by the Michigan Employment Security Act.

(c) Eligible employees shall be entitled to three (3) weeks of benefits for each of four (4) credit weeks earned working for the County of Berrien up to a maximum of twenty-six (26) weeks of benefits for thirty-five (35) weeks preceding the week in which the claimant applied for benefits. The minimum duration shall not be less than ten and one-half (10-1/2) weeks if the claimant worked fourteen (14) weeks and earned at least \$25.01 in each week.

(d) Any change in the rate of regular benefits and their duration that would be mandatory to meet the requirements for equivalency with the Michigan Employment Security Act shall become effective on the same day to change the method of determination of amounts of benefit payments as provided in this section.

SECTION 4. AUTHORIZATION OF PAYMENT

Payment of unemployment benefits shall be based on a certification from the Personnel Director to the County Clerk. Such certification shall contain all information necessary for payment. A record of the benefits received by each individual shall be maintained by the Personnel Director.

SECTION 5. EMPLOYEES COVERED

Except as provided by Section 6, employees covered by this unemployment compensation system, shall consist exclusively of the employees employed by the County of Berrien, Berrien General Hospital, and Riverwood Community Mental Health Center.

SECTION 6. EMPLOYEES AND PERSONS NOT COVERED

The following employees and officials shall not be covered by this unemployment compensation system:

(a) Elected officials, or their replacements, and persons appointed to a board, commission, council or other similar organizations.

(b) Persons providing contractual service to the County as specialists, independent contractors or employees thereof.

(c) Employees who are or were at the time of their employment by the County, students enrolled on a regular basis in high school, college, graduate school or any other school in which their primary status is clearly that of a student or any persons hired as students.

(d) Seasonal, temporary, and part-time employees as defined by the Personnel rules of the County of Berrien.

(e) An individual who performs a service where compensation is derived from federal, state or other funds received under a specific program for which an application was made and whose employment is terminated due to discontinuance of such funding.

(f) A student attending a public or private high school, college or university whose employment was part-time or within the vacation period of the institution, or a part of the institution's school curriculum or program.

SECTION 7. ELIGIBILITY FOR BENEFITS

A claimant to be eligible for benefits must be unemployed as defined and must make a claim for benefits in the manner prescribed by the Personnel Director and further must:

(a) Be able and available to perform full-time work which he is qualified to perform by past experience or training, and of a character generally similar to work for which he has previously earned wages, and be seeking such work; and

(b) Be in compliance with registration and reporting requirements; and

(c) Serve a one week waiting period in which the employee is otherwise eligible and entitled to benefits.

SECTION 8. DISQUALIFICATION

A claimant is disqualified from receiving benefits if the Personnel Director finds that an individual is unemployed due to an ineligible termination or separation as specified in Section 9, has left his work voluntarily or has accepted permanent full-time work with another employer, or has failed without just cause to apply for available suitable work, or has failed to report for a work interview, or has failed to accept suitable work when offered, or has failed when directed to return to his customary work, or any condition as defined by the Michigan Employment Security Act.

SECTION 9. INELIGIBLE TERMINATIONS AND SEPARATIONS

An employee shall not be eligible for benefits under the unemployment compensation system established by this plan if the unemployment shall result from:

(a) Retirement under any retirement system or any future retirement system covering County employees.

(b) Discharge or suspension for reasons including but not limited to misconduct connected with one's work, intoxication while at work, absence due to imprisonment, or an act of assault, theft or sabotage connected with one's work.

- (c) Resignations, including resignations in lieu of discharge.
- (d) Leaves of absence for any reason whether voluntary or involuntary.
- (e) Temporary separations made at the request of the employee.
- (f) Participation or direct interest in a labor dispute including any strike, any action contrary to a collective bargaining agreement, unauthorized work stoppages; or other concerted action.

SECTION 10. PAYMENT OF AND RESTRICTIONS ON BENEFITS

Benefits shall be paid bi-weekly at a time and place fixed by the Affairs Committee. All beneficiaries must report bi-weekly to the Personnel Office on designated days for bi-weekly benefit checks and determination of continuing eligibility. For continuing eligibility, a beneficiary must be actively seeking work, and must be registered with the Michigan Employment Security Commission. No beneficiary who shall refuse any reasonable bona fide offer of employment shall receive any benefits after such refusal.

SECTION 11. RULES AND PROCEDURES

Rules and procedures including any necessary forms may be established by the Personnel Department to administer the unemployment compensation system. The Personnel Director or his designee may bring suit in the name of the County of Berrien to recover any moneys paid upon a fraudulent or untrue application or claim.

SECTION 12. DETERMINATIONS

The Personnel Director or his designee shall promptly make a determination after an application for benefits is filed whether the claimant is a covered individual eligible and qualified to draw benefits based upon the available information. The issuance of each benefit check shall be considered a prima-facie determination that the claimant receiving the check was a covered individual eligible and qualified for benefits. Where a claimant refuses work or fails to apply for work or in any other way is or becomes disqualified or ineligible for benefits, the Personnel Director or his designee shall promptly make a written determination of such disqualification or ineligibility and shall send the claimant notice thereof, including a notice of right of appeal.

SECTION 13. REDETERMINATIONS

Upon the written request of any claimant within 15 days following any determination or decision respecting qualification, eligibility or rate of benefits, the Personnel Director or his designee shall promptly review the prior determination and, if necessary, may order a hearing thereon. Upon review with or without hearing, the Personnel Director or his designee shall issue a redetermination affirming, modifying or reversing the prior determination and stating the reasons therefore. Such redetermination shall be final unless an appeal is filed as provided in Section 14 (below).

SECTION 14. APPEALS

There is hereby established an unemployment compensation appeals board which functions shall be performed by the Affairs Committee of Berrien County. It shall be the duty of the board to review redeterminations and decisions of the Personnel Director pertaining to this unemployment compensation system provided that a claim of appeal is filed within 15 days of such decision or redetermination. The time to file a claim of appeal shall not begin until an employee has been notified in writing of his right to appeal.

SECTION 15. APPEAL BOARD POWERS AND DUTIES

The appeal board may on its own motion affirm, modify, set aside or reverse any decision or order on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence or may permit any of the parties to such decision, or order to initiate further appeals before it. The appeal board shall promptly notify parties of its findings and decisions and its reasons therefore but may omit the giving of any reasons if the previous order, decision or determination is affirmed without any alteration or modification.

SECTION 16. PROCEDURE, REPORTS, RECORD OF PROCEEDINGS ON APPEAL, TRANSCRIPTS OF TESTIMONY

The manner in which appeals to the appeal board shall be presented, the reports thereon required from the interested party or parties, and the procedure governing such appeals shall be in accordance with rules prescribed by the appeal board. A full and complete record shall be kept of all proceedings in connection with an appeal. Staff, space and such clerical service as is needed shall be provided by the Personnel Director to the appeal board.

SECTION 17. EXTENSION OF TIME

Whenever the last day of the period to apply for redetermination or to appeal any decision, determination or redetermination, falls on a Saturday, Sunday or legal holiday, such period shall run until the end of the next day which is not a Saturday, Sunday or legal holiday.

SECTION 18. FINANCES

Financing shall be accomplished through the Contingency Fund which shall account for related revenue and expenditures, including payment of unemployment benefits. The Personnel Director shall recommend to the Finance Committee annual appropriations to be made for this activity.

SECTION 19. FALSE STATEMENTS

No person shall, with intent to deceive, make any false or untrue statements or reports. In lieu of criminal action based on any false or untrue statements or reports, the Personnel Director may recommend disciplinary or other action to the controlling department, board or commission. Any such disciplinary or other action shall be subject to review by the appeal board if appealed within 15 days after notice of such action is given to the person involved.

SECTION 20. CATCHLINE HEADINGS

The catchline headings of the sections of this plan shall in no way be considered to be a part of the respective sections or of this Ordinance but are inserted herein for purposes of convenience.

SECTION 21. SEVERABILITY

Each section and every part of each section is hereby declared to be an independent section and part of section, and a holding of any section or part of section to be void and ineffective for any cause, or the modification of or addition to any section or part of section shall not be deemed to affect any other section or part of section.

SECTION 22. EFFECTIVE DATE

The effective date of the unemployment compensation system established by this Ordinance and of coverage thereunder shall be December 31, 1974, or the earliest date thereafter permitted by law.

ADOPTED: January 31, 1974

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“Wages” means remuneration paid for employment as defined in the Michigan Employment Security Act.

3. Section 3(c) of said ordinance is changed to read as follows:

(c) Eligible employees shall be entitled to three (3) weeks of benefits for each of four (4) credit weeks earned working for the County of Berrien up to a maximum of twenty-six (26) weeks of benefits for thirty-five (35) weeks preceding the week in which the claimant applied for benefits except that an employee who was employed solely by the County for his entire base period shall need only thirty-four (34) credit weeks to qualify for the maximum twenty-six (26) weeks of benefits. The minimum duration shall not be less than ten and one-half (10-1/2) weeks if the claimant worked fourteen (14) weeks and earned at least \$25.01 in each week.

These amendments revert back to the date of the original ordinance: to wit, December 31, 1974, or the earliest date thereafter permitted by law.

AMENDMENT ADOPTED: March 20, 1975