

RESOLUTION 78-2

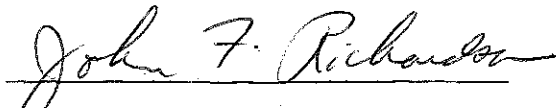
UNEMPLOYMENT COMPENSATION ELECTION

WHEREAS, the Indiana Employment Security Act has been amended to provide coverage to governmental entities,

BE IT HEREBY RESOLVED by the Common Council of the City of Bloomington, Indiana, that the City of Bloomington elects the Reimbursable Method of meeting its obligations to the Indiana Employment Security Division and that the Council directs the City Controller to so notify that Office;

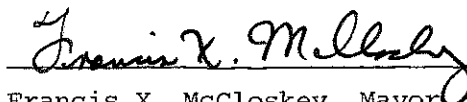
that this election is being made in the interest of holding City expenses to a minimum.

PASSED AND ADOPTED this 4th day of January, 1978, by the Common Council of the City of Bloomington, Monroe County, Indiana.



John F. Richardson
President, Common Council

APPROVED this 6th day of January, 1978, by the Mayor.



Francis X. McCloskey, Mayor
City of Bloomington

SYNOPSIS

Resolution 78-2

UNEMPLOYMENT COMPENSATION ELECTION

In 1977 unemployment coverage was extended to all municipal employees. Prior to that time, only utilities workers had been covered by law; other employees were being granted unemployment payments, but the federal government was paying for them. With the passage of this act, the City must begin contributing to the system.

One of two methods of contribution must be elected, the Tax Method, a straight tax paid quarterly on all eligible employees, or the Reimbursement Method, the City reimburses the Employment Security Division for any benefits charged to its account.

It is the judgement of the City administration and the IACT that a City of Bloomington's size will spend less money through the reimbursable system, especially if good termination records are kept, as they are in Bloomington.



INDIANA EMPLOYMENT SECURITY DIVISION

INDIANA STATE EMPLOYMENT SERVICE

10 North Senate Avenue
Indianapolis, Indiana 46204



OTIS R. BOWEN, M.D.
GOVERNOR

JOHN F. COPPES
DIRECTOR

413 So Washington St
Bloomington IN 47401

December 8, 1977

PAT GROSS, CONTROLLER
CITY OF BLOOMINGTON
City Hall
Bloomington IN 47401

Dear Pat:

In accordance with our phone conversation today you are hereby granted an extension to January 6, 1978, for the filing of your election to go under the Reimbursement Method or Tax Method for all City of Bloomington employees beginning January 1, 1978.

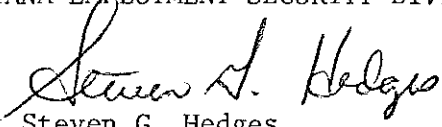
The form to make your election is enclosed. Please indicate your election by checking the appropriate box and have it signed and notarized.

Also enclosed are exerpts under PL 262, which you may wish to read.

If you have further questions please call my office.

Sincerely yours,

INDIANA EMPLOYMENT SECURITY DIVISION

By: 
Steven G. Hedges
Audit Examiner

SGH/hbs

Encl. Form 1065-B
PL 262
Pre-addressed envelope

INDIANA EMPLOYMENT SECURITY DIVISION
10 NORTH SENATE AVENUE
INDIANAPOLIS, INDIANA 46204

REPORTING ELECTION OF MUNICIPALITY

ELECTION TO MAKE "PAYMENTS IN LIEU OF CONTRIBUTIONS"

This means that if you file the election, you will be liable to reimburse the Indiana Employment Security Division for at least two calendar years on receipt of monthly statements the amount of benefits paid to any of your former employees based on wages you paid them during their base period.

(Timely notice must be given the Division to terminate this election at the end of the second or subsequent years as required by Chapter 10, Section 1 of the Act.)

If you wish to reimburse the benefit payments, please check this box ☐
(Form 1020 - Report to Determine Liability must be submitted)

ELECTION TO PAY TAX

Execute this election if you wish to pay the tax on your subject payroll (1% or your experience rate whichever is the lower, on the first \$6,000.00 paid each employee in a calendar year) for the next four calendar years, or until timely notice is given the Division to change this election for the next or subsequent calendar years as required by Chapter 10, Section 1 of the Act.

If you wish to pay the tax, please check this box ☐

Account No. 63502
(Assigned to Utility)

WE, THE UNDERSIGNED,

HEREBY MAKE THE ABOVE ELECTION ACCORDING TO THE TERMS STATED.

NAME OF GOVERNMENTAL ENTITY _____
CITY OF BLOOMINGTON
~~MUNICIPAL UTILITIES~~
Bloomington Indiana

SIGNED _____

STATE OF INDIANA, COUNTY OF MONROE

Subscribed and sworn before me this
____ day of _____ 19 ____

NOTARY PUBLIC _____

My Commission Expires _____

SIGNED _____

TITLE _____

DATED _____

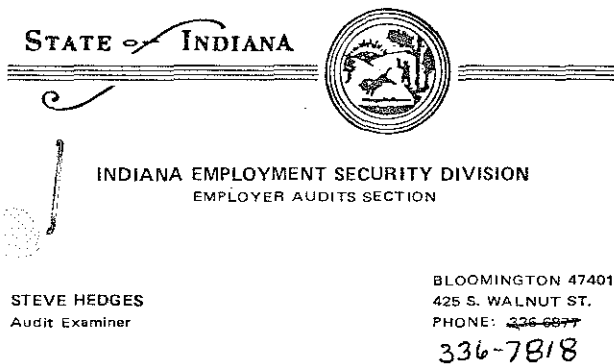
*OPTIONAL
SIGNATURE*

Amendments to the Indiana Employment Security Act to extend coverage to governmental entities.

Chapter 7 Section 2(g). Employer means "any employing unit for which service in employment as defined in 8-2-(1)(1) is performed after January 1, 1978"

Chapter 8, Section 2(1)(1). The term employment shall include service performed after 12-31-77 by an individual in the employ of this state or a political subdivision of the state or any instrumentality of the state or a political subdivision, or any instrumentality which is wholly owned by the state - however, the following types of service is excluded:

- (A) an elected official
- (B) A member of a legislative body or of the judiciary of a state or political subdivision.
- (C) A member of the state or Air National Guard.
- (D) Employees serving on a temporary basis in the case of fire, snow, storm, earthquake, flood, or similar emergency.
- (E) An individual in a position, which under the laws of the state, is designated as a major nontenured policy-making or advisory position, or a policy-making position, the performance of the duties of which ordinarily does not require more than eight (8) hours per week.



In determining whether an individual is excluded from the definition of employment under Subsection E, the following should be considered.

For the exclusion to be effective, the position must be designated under or pursuant to the law of the state as a policy-making or advisory position. Political subdivisions which have authority to enact ordinances without recourse to the state legislature but under authority of the state law may contain reference to such positions. The exclusion may apply if the political subdivision has enacted an ordinance creating or designating one of its positions as policy-making or advisory provided the ordinance is under authority of the laws of the state. If the state law or local ordinance designates the position as policy-making or advisory, the exclusion is applicable. In instances in which the law or ordinance does not clearly label the position, other factors such as job descriptions, qualification of individuals appointed to the position, and responsibilities involved, should be taken into account for purposes of applying the exclusion.

While the term "policy-making" cannot be precisely defined, generally it refers to determination of the direction, emphasis and scope of action in the development of and the administration of governmental programs. Most often such responsibilities are confined to and inherent in jobs at the higher echelons of government. In contrast, an "advisory" position is one which "advises" established governmental agencies and officers with respect to policy, program and administration without having authority to implement its recommendations. These are the responsibilities of, for example, members of various advisory councils.

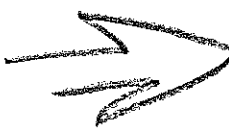
The word "major" most reasonably refers to high level governmental positions usually filled by appointment by the chief executive of the political entity (Governor, Mayor, etc.) and which involve responsibilities affecting the entire political entity, whether it be the state, county, or city.

The term "nontenured" is used in its usual meaning to mean that the position is not covered by merit system or civil service law or rules with respect to duration of service or appointment. There is no requirement with respect to the number of hours per week involved in a major nontenured policy-making or advisory position. Accordingly, the services performed by an individual in such a position are excluded, regardless of the number of hours worked per week.


The exclusion also applies to services in "a policymaking or advisory position the performance of the duties of which ordinarily does not require more than 8 hours per week. Under this exclusion, it makes no difference whether the position is tenured or not. If it is a policy-making or advisory position and does not require more than 8 hours a week, it is excluded. If the position ordinarily requires more than 8 hours per week, this exclusion does not apply. The number of hours required should be determined by reference to the law establishing the position and the actual time spent by incumbents. Note that the word "ordinarily" means that generally no more than 8 hours per week is required. There may be instances when more than 8 hours per week is necessary. However, if as a common practice, the individual is obliged to spend no more than 8 hours a week or his responsibilities, the service is excluded.

Note that subsection (A) excludes services by elected officials, in their elected capacities, regardless of the type of position they occupy, therefore subsection (E) will apply mainly to appointees.

Two options available to governmental entities:



Option #1. A governmental employer as defined in 7-2-(g) of the Act may elect to pay a tax, in which case the employer shall contribute at a rate of 1% until it has been subject for a period of four (4) calendar years. (36 consecutive calendar months immediately preceding the computation date which is June 30 each year. The employer can also change this election by notifying the Board, no later than 30 days prior to the beginning of any taxable year of its intent to file an election to become a "reimbursable employer". *See footnote concerning options of cities and towns who had previously been subject to the Act to the extent of their municipal utility employees.

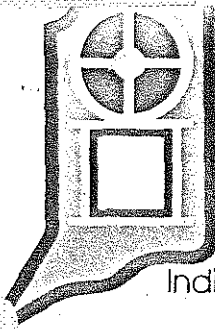


Option #2. A governmental employer may also file an election to become liable for "payments in lieu of contributions". The employer is billed each month for any benefits charged to his account. If an employer elects to go "reimbursable" such election shall be for a period of not less than two (2) calendar years. The employer must file a **report each quarter as any other employer and list all covered employees and their gross wages each quarter.** There would be no tax rate and nothing would be due on a quarterly basis.

Under Option #1 tax is due on the first \$6,000.00 wages paid to each employee, therefore the maximum tax due on each employee would be \$60.00 (1% x 6000.00)

*Cities and towns previously covered under the Act to the extent of their municipal utilities will be given a third option. If they elect the tax method, they will retain their experience account balance, and be assigned their computed rate, however, such rate shall not exceed 1% as explained under Option #1. For example, if a city has a computed rate of .3% for 1978, they could continue at that rate for 1978. Their report would include all covered employees including those in the utilities. If their 1979 rate was computed at 1.8%, they would be assigned the maximum of 1%. These cities and towns would, of course, still have the option to "reimburse". If a utility in a first class city is determined by statute to be a separate political subdivision, they will retain their existing experience account and will have the option of paying a tax at their assigned rate (not to exceed 1% for 4 years) or of reimbursing.

The Indiana Employment Security Division maintains audit field offices in twenty cities throughout the state. A listing of these offices including names and phone numbers of all Division Field Examiners is available to all interested parties. Our examiners will assist in completing all required forms, and answering any questions concerning governmental reporting requirements under PL 262.



act

Indiana Association of Cities & Towns



Action Lines

January 1977

The Implications of Unemployment Compensation

October 20, 1976, when President Ford signed into law the Unemployment Compensation Amendments (P.L. 94-566) that Congress had passed, he in effect mandated all state legislatures to require the coverage of state and local government employees in the State's Unemployment Insurance Program. Such state legislation must be enacted to allow private employees to continue to have a 2.7% tax credit against the federal unemployment tax.

Failure of State legislatures to enact such legislation will also result in the forfeiture of federal funds that are needed to administer this program.

Although this new law is very specific in requiring unemployment insurance coverage of state and local employees, the amendments allow the state legislatures to determine how the program will be administered and financed. However, they are required by P.L. 94-566 to give local governments two methods of financing this sometimes expensive program. They must give cities, towns and counties the choice of either making standard contributions to the state on a regular basis (similar to paying premiums for any insurance programs) or reimbursing the state fund for benefits paid to its former employees.

To better illustrate what this means to cities and towns, a summary of how benefits are paid to employees follows:

When an employee leaves employment he may file with the state for unemployment compensation. The state will then determine if that employee is eligible for benefits based on the reason the employee left employment and how long he had been working in covered employment. Other factors such as availability for suitable work and any part time employment will also be considered. Of course, the overriding factor is why employment was terminated. The employee is eligible for full benefits if he has been laid off, was terminated without just cause or was terminated through no fault of his own. Reasons for termination that will prevent the employee from being eligible for benefits include termination for disciplinary reasons and quitting without cause. This is a simplification of a very elaborate determination process and it should be noted that numerous court decisions have been made concerning eligibility for benefits. Courts have found voluntary termination due to

incompatibility with supervisors and fellow employees, or improper working conditions sufficient to entitle the employee to benefits.

Thus, it is impossible to determine ahead of time in a particular case if an employee will be entitled to benefits upon termination until the state review board makes its decision. The Review Board's decision can be appealed by either the employer or the employee to an appeal board and ultimately to the courts.

Cont'd on Page 2

Care To Come?

The National League of Cities annual Congressional Cities Conference is scheduled for March 6-8 at the Washington Hilton Hotel in Washington, D.C.

President Jimmy Carter has been invited to address this annual meeting of the nation's municipalities.

"Carter, Congress, and the Cities" will be the theme of the 1977 conference and will give municipal officials an opportunity to listen and talk to some of the prominent leaders of the Carter Administration and the new Congress.

Registration will begin on Saturday, March 5, and will continue on through Sunday. The NLC policy committees will meet Sunday and a reception for conference delegates is planned for Sunday evening.

In addition to the congressional activities, workshops are planned dealing with community development, public works, and CETA.

Hotel and conference registration materials are being mailed at this time and IACT is again looking at the possibility of either a charter flight or group rate if enough city and town officials are interested in attending.

Oops!



IACT apologizes for the mix-up in last month's legislative newsletter. Katie Hall not Thomas Hall, is chairman of the Senate Education Committee. The biographical sketch should have read: Katie Hall (D) Senate Education Committee Chairman (District 5, Lake). 1937 Madison St., Gary 46407. Teacher. Charter Member Gary Association For Study Of Afro-American Life And History. Vice-Chairman, Board Of Commissioners Of Housing Authority, City of Gary. Chairman, Scholarship Committee For Self-Help, Inc. Order Of Eastern Star Lodge. Gary Concerned Citizens Organization, Scholarship Chairman. President Gary Council For Social Studies. Member Indiana And National Council For Social Studies. Member, American Federation Of Teachers Local 4. B.S. Degree Mississippi Valley State College, Master's Degree Indiana University. Van Buren Church.

If it is found that an employee is entitled to unemployment compensation he can receive up to 25% of his salary for the first four of the last five quarters over a twenty-six week period. This would amount to approximately 1/4 of a person's annual salary to be paid over 1/2 of a year. In periods of high unemployment, these benefits can be extended for an additional 13 weeks (or 1/8 annual salary over 1/4 of a year).

With an understanding of the Unemployment Insurance program, local officials can determine the type of legislation they would like to see passed this session.

The following examples will illustrate what might happen if the Assembly legislates various options:

Method I - Contribution

If the state legislature adopts the 3.2% federally prescribed contribution rate, a city or town would have to pay according to:

$$\begin{aligned} &\text{Number of employees paid \$6000 or more*} \quad \times \quad \$192 \text{ (which is 3.2\% of \$6000)} + \\ &3.2\% \quad \times \quad \text{Salary of all employees paid less than \$6000*} = \text{Annual UI Contribution} \end{aligned}$$

*elected officials, policy making officials and advisory officials are excluded from UI coverage.

Below are the estimates the larger cities would pay under this formula:

City	Total Payroll*	No. of Employees	UI*
Anderson	8,952,000.00	1,027	\$275,000.00
Evansville	14,292,000.00	1,743	450,000.00
Fort Wayne	17,592,000.00	1,716	550,000.00
Gary	19,068,000.00	2,093	600,000.00
Hammond	10,500,000.00	1,165	325,000.00
Indianapolis	97,164,000.00	11,478	3,000,000.00
Muncie	5,604,000.00	515	170,000.00
South Bend	14,604,000.00	1,590	467,328.00
Terre Haute	4,848,000.00	663	150,000.00

*These computations are only approximations based on total payroll. Actual contributions could be somewhat higher or lower depending upon the number of employees paid less than \$6,000.00.

Method II - Reimbursement

The legislature must give local governments the option to reimburse the program for the amount of benefits paid to former employees.

This means local units of government would have to repay, dollar for dollar, any benefits paid to former employees of their municipality. It is impossible to determine what this amount might be for any city or town due to the lack of information available on municipal terminations. Individual cities or towns could figure a rough projection by looking at their employment histories such as firings or other terminations that would entitle employees to benefits. The total reimbursement would be figured by totaling all the benefits to which these employees would be entitled. Remember that total benefits could be as high as 25% of the total salary of the first four of the last five quarters.

An example: an employee is fired without just cause and files for unemployment compensation. The employee had been paid \$10,000.00 for the first four of the last five quarters so that employee would be entitled to 26 weeks of benefits totaling \$2,500.00. If the employee utilized all of those benefits, the city or town would have to reimburse the state \$2,500.00.

Of course, the Legislature has other options it can provide in financing this system besides those outlined above. One of these is contained in House Bill 1176

sponsored by Representative Paul Hric, which would simply require the state to pay all costs of the unemployment insurance program. Such a move would alleviate the financial burden placed on cities and towns and also reduce the voluminous paperwork involved in its administration. If this proposal for full funding by the state is not acted upon favorably by the legislature, other options could be considered such as cities and towns sharing the cost of the program with the state.

On the contribution method, the contribution rate could be well below the prescribed rate of 3.2%. On the reimbursement method, the amount of reimbursement could be limited to a certain percentage of total payroll. An administrative requirement to allow cities and towns to reimburse the state in the succeeding year would give municipalities the opportunity to more realistically budget for this amount.

To assist IACT in developing viable alternatives, member cities and towns are urged to inform the Association of the costs of the Unemployment Insurance program for their municipalities by using the two formulas in this article. By illustrating the unrealistic financial burden that would be imposed by this program, the legislature may be dissuaded from enacting unfavorable legislation and more inclined to pass legislation that is workable for Indiana's municipalities.

UI Manual Available

The Unemployment Insurance Program manual discussed at the Congress of Cities is now available. The manual describes the current program, the changes made through enactment of P.L. 94-566, and suggests options that should be considered by the cities within each state.

Copies can be ordered from the NLC/USCM Publications Office, 1620 Eye St., N.W., Washington, D.C. 20006. Cost: \$3.00.

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