

## **CHAPTER 52-05**

### **ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE**

#### **52-05-01. Employing unit deemed to be employer for entire calendar year - Exception.**

Any employing unit which is or becomes an employer subject to the North Dakota unemployment compensation law within any calendar year must be deemed to be an employer during the whole of such calendar year, except as provided in sections 52-05-02 and 52-05-03.

#### **52-05-02. Employer subject to provisions of law for term of two years.**

Any employing unit, not otherwise subject to the provisions of the North Dakota unemployment compensation law, which files with the bureau its written election to become an employer subject to such provisions for not less than two calendar years, upon the written approval of such election by the bureau, shall become an employer subject hereto to the same extent as all other employers as of the date stated in such approval. Such employing unit shall cease to be subject to the provisions of the North Dakota unemployment compensation law as of January first of any calendar year subsequent to such two calendar years, only if during January of such year it has filed with the bureau a written notice to that effect.

#### **52-05-03. Employment not included within law may be deemed subject to provisions of law.**

1. Any political subdivision of this state may elect to cover under the North Dakota unemployment compensation law service performed by employees in all of the hospitals and institutions of higher education, as defined in subsections 25 and 27 of section 52-01-01, operated by such political subdivision.
  - a. Election is to be made by filing with the bureau a notice of such election at least thirty days prior to the effective date of such election. The election may exclude any services described in subdivision h of subsection 17 of section 52-01-01. Any political subdivision electing coverage under this subsection shall make payments in lieu of contributions with respect to benefits attributable to such employment in the same manner provided for payment by nonprofit organizations in chapter 52-04.
  - b. The provisions in subsection 11 of section 52-06-02 with respect to benefit rights based on service for state and nonprofit institutions of higher education are applicable also to service covered by an election under this section.
  - c. The amounts required to be paid in lieu of contributions by any political subdivision under this section must be billed and payment made as provided in chapter 52-04 with respect to similar payments by nonprofit organizations.
  - d. An election under this subsection may be terminated by filing with the bureau written notice not later than thirty days preceding the last day of the calendar year in which the termination is to be effective. Such termination becomes effective as of the first day of the next ensuing calendar year with respect to services performed after that date.
2. Any other employing unit, inclusive of governmental units, for which services are performed that do not constitute employment as defined in the North Dakota unemployment compensation law may file with the bureau a written election that all such services with respect to which payments are not required under an unemployment compensation law of any other state or of the federal government, and which are performed by individuals in its employ in one or more distinct establishments or places of business must be deemed to constitute employment by an employer for all the purposes of the North Dakota unemployment compensation law for not less than two calendar years. Upon the written approval of such election by the bureau, such services must be deemed to constitute employment subject to the provisions of the North Dakota unemployment compensation law from and after the date stated in such approval. Such services must cease to be deemed employment subject hereto as of January first of any calendar year subsequent to such two calendar years, only if

during January of such year such employing unit has filed with the bureau a written notice to that effect. The bureau in its discretion may on its own motion terminate any election agreement under this subsection upon thirty days' notice to the employer. The rate of contribution for employment covered by an election under this subsection must be as provided in chapter 52-04, except, however, an electing governmental unit in addition to those provided for in subsection 1, which hereafter becomes an employer under this chapter, shall reimburse the state unemployment fund in an amount equal to its share of costs to the unemployment fund.

3. After the termination of an election under this chapter, governmental units shall remain liable for their proportionate share of benefits which are based on wages paid for services during the period of election.

**52-05-04. Termination as employer - Regulations governing.**

Except as provided in sections 52-05-02 and 52-05-03, an employing unit shall cease to be an employer subject to the North Dakota unemployment compensation law only as of the first day of January of any calendar year, and only if it files with the bureau during January of such year, a written application for termination of coverage, and the bureau finds that the employing unit is not an employer as defined in the North Dakota unemployment compensation law. During January of any calendar year, the bureau on its own motion, may file an application for termination of coverage on behalf of any employer who during the preceding year was liable for contributions under the terms of the North Dakota unemployment compensation law, but who:

1. Has removed from the state;
2. Has discontinued the business conducted by it at the time it became liable under the terms of the North Dakota unemployment compensation law; or
3. Has been adjudged bankrupt or has become insolvent.

Such application for termination of coverage filed by the bureau on its own motion must be acted upon in exactly the same manner as though the application had been filed by the employer.