

Has the Unemployment Compensation Commission of Montana the power and authority under the laws of Montana to enter into a binding agreement with other states of the United States, whereby wage credits and potential rights to benefits of workers determined and established under the Montana law might be combined with such rights established in other states as to establish a base period in this state or in another state, thus giving the commission authority to pay benefits in proportion to the amount of credits in this state?

The Montana Unemployment Compensation Commission was created by Chapter 137, Laws of 1937. Sections 3, 4, 7, 8, 14 and 19 of this chapter were amended by Chapter 137, Laws of 1939, and Sections 5, 12 and 15 of said Chapter 137, Laws of 1937, and Sections 3, 4, 7, 8, 14 and 19 as amended in 1939, all were amended by Chapter 164, Laws of 1941. In Chapter 233, Laws of 1943, certain of said sections theretofore amended or parts thereof were amended and two new sections were added.

This act as originally enacted was intended to cover the entire functions and administration of an unemployment compensation system for this state. The law was based on the police powers of the state and is strictly a state agency. As a state agency, it has no power other than that specifically granted by the act creating it or as must be necessarily implied from the power specifically granted, and in the event of doubt, it must be resolved that the power does not exist. (See in this respect *Lewis v. Petroleum County*, 92 Mont. 563, 17 Pac. (2nd) 60.)

It is a general rule of law in construing enactments that the entire enactment must be read together. In reading the entire unemployment compensation act, it is to be found that specific reference is made to contributions are to be made, how benefits are to be paid, and how the act is to be administered. In general it applies only to wages paid to employees employed in this state. Nowhere in the act is any specific authority given to the commission to enter into agreements with other states for the combination of wage credits for work performed by employees of different employers. In fact Section 11 (j) specifically provides

Opinion No. 265.

Unemployment Compensation Commission—Agreements—Reciprocal Agreements—Credits—Wage Credits—Benefits.

Held: Under the provisions of the Unemployment Compensation Law as it now exists, the commission has no authority to enter into reciprocal agreements with any other state for the payment of benefits other than under the circumstances as specifically set forth in Subsection (j) of Section 11 of the said act.

December 15, 1944.

Mr. Barclay Craighead, Chairman
Unemployment Compensation
Commission
Helena, Montana

Dear Mr. Craighead:

You have asked for an opinion on the following question:

for reciprocal benefit agreements only in case the employee works for the same employer. This portion of the act has never been amended. It is true that Section 11-B, added to the act by Chapter 233, Laws of 1943, states in part as follows:

"The commission shall fully cooperate with the agencies of other states . . ."

But it is to be noticed that the full purport of said Section 11-B is to oppose any infringements by the federal government on the state agency, the above quotation being preceded by the right to make studies of the desirability of state over federal agencies and is merely separated by a comma from the following:

". . . and shall make every proper effort within its means, to oppose and prevent any further action which would in its judgment tend to effect complete or substantial federalization of state unemployment compensation funds or state unemployment compensation . . ."

This amendment of 1943 did not contain any direct repeal of said subsection (j) of Section 11, nor did it mention it by any reference; therefore as repeals by implication are not favored it is to be presumed that said subsection (j) of Section 11 is still in force and is the only exception in regard to reciprocal agreements. Further in regard to the intent of said Section 11-B, it may not be presumed that any intention existed to provide for such agreements as you mention, as at the time this portion of the act was passed such agreements had not been practiced, and to a majority of people at least, was unknown and unthought of.

Many other portions of the said Unemployment Compensation Law make such agreements extremely doubtful but in face of the provisions of said subsection (j) of Section 11, I do not believe it is necessary to go into any other such provisions to answer your inquiry. In the event it is felt by the commission that such agreements are desirable for the workability of the act and to make it more appropriate to its intent, this office would be glad to go over the various provisions which I feel should be clarified and changed in making an amendment of the act.

Therefore, it is my opinion that under the provisions of the Unemployment Compensation Law as it now exists the commission does not have the authority to enter into reciprocal agreements with any other state for the payment of benefits, other than under the circumstances as specifically set forth in subsection (j) of Section 11 of the said act.

Sincerely yours,
R. V. BOTTOMLY
Attorney General