

1 HB305
2 127449-4
3 By Representative Canfield
4 RFD: Commerce and Small Business
5 First Read: 22-MAR-11

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ENROLLED, An Act,

To amend Sections 25-4-40.1 and 25-4-54, Code of Alabama 1975, as amended by Act 2010-505 of the 2010 Regular Session (Acts 2010, p. 811), relating to the Employment Security Enhancement Fund; to extend the expiration date of the special assessment.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 25-4-40.1 and 25-4-54, Code of Alabama 1975, as amended by Act 2010-505, 2010 Regular Session (Acts 2010, p. 811), are amended to read as follows:

"§25-4-40.1.

"(a) Retroactive to April 1, 1992, and ending September 30, ~~2011~~ 2013, there is hereby placed upon all wages so defined in Section 25-4-16, paid to employees by employers subject to pay contributions as provided in Sections 25-4-51 and 25-4-54, except as is hereinafter provided in this section, a special assessment of 0.06% (six one-hundredths of one percent) of such wages. This assessment shall not apply to wages paid during any calendar quarter of any calendar year by any employer whose rate of contribution has been computed under the provisions of Section 25-4-54 to be at least 5.40% but not more than 5.45% for such calendar year, to any employer who for such calendar year has elected to make payments in lieu of contributions pursuant to the provisions

1 contained in Section 25-4-51, nor to any employer who has not
2 had sufficient unemployment experience to qualify for a rate
3 determination under Section 25-4-54 for such calendar year.

4 "(1) Assessments under this section shall become due
5 and payable at the end of each calendar quarter which begins
6 after March 31, 1992, and shall be paid in accordance with
7 regulations as may be prescribed by the director at the same
8 time and in the same manner as employers are required by this
9 chapter to file reports and pay contributions and shall not be
10 deducted, in whole or in part, from any remuneration of
11 individuals in the employ of the employer.

12 "(2) The provisions of Sections 25-4-132 and
13 25-4-133, relating to the assessment of interest and penalties
14 for delinquent reporting or payments and the procedures for
15 the collection of delinquent reports and payments shall apply
16 to the assessment prescribed by this section. Any interest or
17 penalty so assessed and collected shall be deposited or
18 transferred to the Special Employment Security Administration
19 Fund provided for in subsection (b) of Section 25-4-142.

20 "(3) All moneys collected as assessments pursuant to
21 the provisions of this section shall be promptly deposited in
22 the clearing account of the Unemployment Compensation Fund
23 only for the purpose of transfer and, as soon as practicable
24 to do so, shall be transferred into the "Employment Security
25 Enhancement Fund" in the State Treasury.

1 "(b) There is hereby created in the State Treasury a
2 special fund, to be known as "the Employment Security
3 Enhancement Fund," into which shall be deposited or
4 transferred all funds collected retroactive to April 1, 1992,
5 pursuant to the assessment made by the provisions of Section
6 25-4-32. All moneys in this fund shall be deposited,
7 administered, and disbursed in the same manner and under the
8 same conditions and requirements as is provided by law for
9 other special funds in the State Treasury. All moneys in this
10 fund shall be continuously available to the director for
11 expenditure in accordance with the provisions of this chapter,
12 and shall not lapse at any time. These funds shall not be
13 expended or made available for expenditure in any manner which
14 would permit their substitution for federal funds, which
15 would, in the absence of the moneys, be available to finance
16 expenditures for the administration of the state unemployment
17 compensation and employment service laws.

18 "(c) The moneys in the Employment Security
19 Enhancement Fund are authorized and, are hereby appropriated,
20 for use by the director as follows:

21 "(1) Special claimant assistance program.

22 "a. Moneys in this fund may be expended to
23 supplement basic employment security services with special job
24 search and job placement assistance designed to assist
25 unemployment compensation claimants obtain employment.

1 "b. The director shall appoint an overview committee
2 consisting of five (5) members and composed of the Director of
3 Employment Service, the Director of Unemployment Compensation,
4 and the Director of the Labor Market Information Division of
5 the department, one member representing employers and selected
6 by the Business Council of Alabama (or successor organization)
7 and one member selected to represent employees by the Alabama
8 Labor Council (or successor organization). The committee
9 members shall be selected as soon after approval of this
10 amendment as is practicable.

11 "c. The duties of the overview committee shall
12 include the initial planning of the claimant assistance
13 program as to content and procedures, the determination of
14 standards, criteria, statistical requirements, and reporting
15 needs, monitoring the progress of the program, and measuring
16 the results and making recommendations to the director.

17 "d. All members of this committee shall serve
18 without remuneration, however, shall be reimbursed for any and
19 all necessary expenses incurred during the performance of
20 their duties in the same manner and under the same regulations
21 as apply to state employees. Such expenses are to be paid from
22 the Employment Security Enhancement Fund.

23 "(2) General administration and enhancement of
24 employment security. Necessary and appropriate costs of
25 employment security enhancements, not in conflict with the

1 foregoing or state or federal laws, rules or regulations, may
 2 be paid from this fund at the discretion of the director.

3 "(3) The costs of the collection of revenues, for
 4 the maintenance of the fund and the repayment of advances to
 5 the fund from other sources shall be paid from this fund.

6 "(4) The director shall submit a special report at
 7 the end of each calendar year to the Governor, Lieutenant
 8 Governor, and the Speaker of the House of Representatives
 9 giving an accounting of collections and expenditures, and an
 10 assessment of the success of programs funded from this source.

11 "(d) Any interest earned on money in this special
 12 fund shall accrue to the Employment Security Enhancement Fund.

13 "(e) In the event there is a cessation of the
 14 activities and purposes of the programs to be funded by moneys
 15 from this fund, all remaining moneys in the Employment
 16 Security Enhancement Fund, within 90 calendar days after all
 17 outstanding obligations of the director related to this fund
 18 have been fulfilled, shall be transferred into the state's
 19 Unemployment Compensation Trust Fund on deposit with the U.S.
 20 Treasury.

21 "§25-4-54.

22 "(a) Determination of contribution rates.

23 "(1) For the 12-month period beginning on January 1
 24 of each year which begins after December 31, 1996, any
 25 employer whose experience rating account has been subject to

1 benefit charges throughout at least the fiscal year, as
2 defined in Section 25-4-4, immediately preceding such January
3 1, shall have his rate determined by the Unemployment
4 Compensation Fund's liability for benefits paid to his
5 employees, modified by the fund's balance as of the most
6 recent June 30. The employment record of an organization which
7 has been making payments in lieu of contributions but which
8 elects to change to payment of contributions shall be deemed
9 to have been chargeable with benefits throughout the period
10 (not to exceed three fiscal years) with respect to which it
11 was making payments in lieu of contributions and its benefit
12 charges and payrolls for such period shall be used in
13 computing its benefit ratio pursuant to subsection (d) of this
14 section.

15 "(2) For the 12-month period beginning on January 1
16 of each calendar year which begins before January 1, 1997, the
17 rates of contribution shall be determined as was prescribed by
18 this section prior to January 1, 1997.

19 "(b) Determination of individual benefit charges.

20 "(1) An individual's "benefit charges" shall be as
21 follows:

22 "a. For each week benefits are paid, an individual's
23 "benefit charges" shall be equal to the amount of benefits he
24 was paid for such week.

1 "b. For each week extended benefits pursuant to
2 Section 25-4-75 are paid to an individual, the "benefit
3 charges" shall be equal to the state's share of such benefits
4 paid to him for such weeks; provided, however, where an
5 individual's benefit charges for extended benefits are
6 attributable to service in the employ of any governmental
7 entity, as defined in paragraph (a)(2)b of Section 25-4-10,
8 the individual's "benefit charges" shall be an amount equal to
9 the benefits he was paid for such week.

10 "(2) Any benefits paid to an individual based on
11 wages paid to an employee during his base period for part-time
12 employment by an employer who continues to give the employee
13 employment to the same extent while he is receiving benefits
14 as he did during his base period shall not be determined to be
15 the individual's benefit charges. The employer shall establish
16 the continuation of work to the satisfaction of the director
17 by submitting such information as the director may require
18 within the time required by other provisions of this chapter
19 after the date of notification or mailing of notice by the
20 director that the employee has first filed a claim for
21 benefits.

22 "(3) If benefits paid to an individual are based on
23 wages paid by two or more employers, the amount of the
24 individual's benefit charges applicable to any one employer
25 shall be an amount which bears the same ratio to the total

1 benefit charges as the total base period wages paid by such
2 employer to the individual and used for the payment of
3 benefits bears to the total base period wages paid to the
4 individual by all his base period employers and used for the
5 payment of benefits.

6 "(4) When, in the determination of any individual's
7 benefits, wages have been properly included once for one
8 benefit year or for one base period, such wages shall not
9 thereafter be included again in the computation of his
10 benefits for any other benefit year or in his wages for any
11 other base period respectively.

12 "(c) Determination of employer benefit charges.

13 "(1) An employer's benefit charges for each and
14 every fiscal year shall be the total of the regular benefits
15 and the state's share of the extended benefits paid during
16 such fiscal year to all of his employees or former employees
17 which are attributable to wages paid by such employer to his
18 employees or former employees; except as is provided by
19 paragraph a. of subdivision (a) (5) of Section 25-4-51 for
20 governmental entities.

21 "(2) The director shall analyze the benefit payments
22 in each fiscal year and determine each employer's benefit
23 charges for each fiscal year.

24 "(3) The director shall, after the close of each
25 calendar quarter, furnish each employer with a statement of

1 the benefits paid to his workers, or former workers, which
2 became his benefit charges in that calendar quarter, together
3 with the names of such workers, or former workers, and such
4 statement, in the absence of an application for a revision
5 thereof within 30 days of the mailing of such statement to the
6 employer's last known address, shall be conclusive and final
7 upon the employer for all purposes and in all proceedings
8 whatsoever. Such application for revision shall be in the form
9 and manner prescribed by regulation of the director. Upon
10 receipt of, within the time allowed, an application for
11 revision of such statement, the director shall allow such
12 application in whole or in part, or shall deny such
13 application and shall serve notice upon the employer of such
14 decision. Such decision of the director shall be final and
15 conclusive on the employer at the expiration of 30 days from
16 the date of service of such notice, unless the employer shall
17 within the 30-day period file with the director a written
18 protest and a petition for hearing, specifying his objections
19 thereto. Upon receipt of such petition the director shall fix
20 a time and place for a hearing and shall notify the employer
21 thereof. At any hearing held as herein provided, the decision
22 of the director shall be prima facie correct, and the burden
23 shall be upon the protesting employer to prove it is
24 incorrect. No employer shall have the right to object to the
25 benefit charges with respect to any worker as shown on such

1 statement, unless he shall first show that such charges arose
2 as a result of benefits paid to such worker in accordance with
3 a determination, or a redetermination, to which such employer
4 was a party entitled to notice thereof, as provided by Article
5 5 of this chapter, and shall further show that he was not
6 notified of such determination or redetermination in
7 accordance with the requirements of Article 5 of this chapter.
8 Nothing herein contained shall affect the right of any
9 employer at such hearing to object to such statement of
10 benefit charges on the ground that it is incorrect by reason
11 of a clerical error made by the director or any of his
12 employees. The employer shall be promptly notified by mail of
13 the director's decision. Such decision shall be final and
14 conclusive unless an appeal is taken therefrom in the manner
15 and within the time prescribed in subsection (h) of this
16 section.

17 "(4) Nothing contained in subdivision (3) of this
18 subsection (c) shall be construed as limiting or affecting in
19 any manner the right and authority of the director to remove
20 benefit charges from any employer's account upon discovering
21 or being aware of any such employer's workers or former
22 workers having drawn benefits by reason of false
23 representation of their earnings while filing claims for
24 benefits nor to make any corrections resulting from any
25 adjustment to benefits paid to the individual.

1 "(5) Any Alabama unemployment compensation benefits
 2 paid to any claimant under the following conditions shall not
 3 be charged to the account of a contributory base period
 4 employer(s) for the state fiscal year ending June 30, 1996,
 5 and each fiscal year thereafter, if:

6 "a. The benefits are paid for unemployment due
 7 directly to a major natural disaster, and

8 "b. The President has declared the event a disaster
 9 pursuant to the Disaster Relief Act of 1970, 42 USC § 4401, et
 10 seq., as amended, and

11 "c. The benefits are paid from the Alabama U.I.
 12 Trust Fund to claimants who would have been eligible for
 13 disaster unemployment assistance under this act, if they have
 14 not first received Alabama unemployment insurance benefits
 15 with respect to their unemployment.

16 "(d) Determination of employer benefit ratio.
 17 Effective January 1, 1997, and each year thereafter, the
 18 benefit ratio of each employer who qualifies for a rate
 19 determination under subdivision (a)(1) of this section and has
 20 been chargeable with benefits throughout the three most recent
 21 preceding fiscal years shall be a percentage obtained by
 22 dividing the total of his benefit charges for such three-year
 23 period by that part of his total taxable payroll for the same
 24 three-year period with respect to which contributions have
 25 been paid on or before July 31, next following such period,

1 and the benefit ratio of each employer who qualifies for a
2 rate determination under subdivision (a)(1) of this section,
3 but who has not been subject to this chapter for a period of
4 time sufficient to have been chargeable with benefits
5 throughout the three most recent preceding fiscal years, shall
6 be a percentage obtained by dividing the total of his benefit
7 charges for the period throughout which he has been
8 chargeable, such period to be not less than the most recent
9 preceding fiscal year by that part of his total taxable
10 payroll for the same period with respect to which
11 contributions have been paid on or before July 31 next
12 following such period. The employers benefit ratio shall be
13 computed to the fourth decimal and be used in determining each
14 employer's contribution rate as prescribed in subsection (a)
15 of this section for the next calendar year; except that:

16 "For tax rate year beginning January 1, 1991, the
17 employer's benefit ratio shall be determined by the employer's
18 actual benefit charges to his account for the fiscal year
19 ending September 30, 1990, and for fiscal years ending
20 September 30, 1988, and September 30, 1989, the employer's
21 benefit charges shall be determined from data accumulated by
22 the director during such years relative to benefit wage
23 charges and converted to benefit charges, in such manner as
24 the director shall prescribe.

25 "(e) Shared costs.

1 "(1) For the purposes of this subsection (e) and for
2 the determination of an employer's rate of contribution
3 pursuant to subsection (f), "shared" or "socialized" cost for
4 each fiscal year is defined to be:

5 "a. Benefit charges which cannot be effectively
6 assigned to an individual employer's experience rating account
7 during such fiscal year because of the employer becoming
8 inactive (in accordance with Section 25-4-130); and

9 "b. The total amount of the difference between the
10 benefit charges to all employers during the fiscal year who
11 are assigned the maximum rate of contribution under any one of
12 the rate schedules for the calendar year next following such
13 fiscal year and the total amount of contributions received
14 from all such maximum rated employers during the same fiscal
15 year; and

16 "c. Credits granted employers during such fiscal
17 year because of the reason for separation (as provided in
18 Section 25-4-78), continued part-time work, as provided by
19 subdivision (b) (2) of this section, and relief from charges
20 granted an employer under the provisions of subdivision (c) (4)
21 of this section; and

22 "d. Benefit overpayments which have been declared
23 uncollectible or have been waived by the director during the
24 fiscal year pursuant to the applicable provisions of this
25 chapter; and

1 "e. Contributions due from employers but not paid
 2 and which have been, during such fiscal year, declared
 3 uncollectible by the bankruptcy courts or official action by
 4 the director; and

5 "f. Cost resulting from the relief of charges for
 6 contributory employers under Section 25-4-54(c) (5) will be
 7 included in shared cost as defined in this section.

8 "(2) The total of the amounts determined under the
 9 provisions of subdivision (1) above shall be the statewide
 10 total shared cost for any fiscal year.

11 " (3) Net shared costs for any fiscal year shall be
 12 the statewide total of shared costs for that fiscal year
 13 reduced (but not below zero) by the amount of:

14 "a. Interest received by the fund from the U.S.
 15 Treasury during such fiscal year; and

16 "b. The total amount of the difference between the
 17 contributions received from all employers during such fiscal
 18 year who are assigned the minimum rate of contributions under
 19 any one of the rate schedules for the calendar year next
 20 following such fiscal year and the total of all benefit
 21 charges made to all such minimum rated employers during the
 22 same fiscal year.

23 "(4) To determine the "shared cost ratio" for any
 24 fiscal year, the net shared cost for such fiscal year shall be
 25 divided by the statewide total of taxable wages for the same

1 fiscal year which have been reported by all contributory
2 employers and upon which contributions have been timely paid
3 (reduced by the total of the taxable wages reported and timely
4 paid on by any employer or employers for the same fiscal year,
5 who by the provisions of subdivision (5) of this subsection
6 (e) are relieved of the shared cost assessment). The resulting
7 quotient adjusted to the nearest multiple of one-thousandth
8 shall be the "shared cost ratio" applicable for assessment to
9 all contributory employers for the next following calendar
10 year.

11 "(5)a. Except as is hereinafter provided, the shared
12 cost ratio as computed under the above provision for each
13 fiscal year shall, for the next calendar year, be assessed
14 each employer eligible for a rate determination under the
15 provision of subdivision (a)(1) of this section, in addition
16 to the rate of contributions determined by the tables
17 contained in subsection (f) of this section.

18 "1. Any employer whose rate of contribution has been
19 determined to be the minimum rate allowed under Schedule A for
20 a calendar year, shall be relieved of any shared cost
21 assessment during that calendar year;

22 "2. Any employer whose rate of contribution has been
23 determined to be the minimum rate allowed under Schedule B for
24 a calendar year and whose experience rating account has not
25 been charged with any benefits during the three immediately

1 preceding fiscal years, shall be relieved of any shared cost
2 assessment for that calendar year;

3 "3. No relief shall be granted to any employer for
4 any portion of the shared cost assessment for a calendar year
5 when either Schedule C or D is in effect.

6 "b. The assessment for shared costs shall become due
7 and payable at the same time and in the same manner as
8 contributions.

9 "c. The authority of the director to enforce
10 collection of any shared cost assessment shall be the same as
11 is provided in this chapter for the enforcement of the
12 collections of contributions.

13 "(f) Notice of contribution rate, etc.; maximum
14 rate. The contribution rates (expressed as a percentage of
15 taxable wages) for each employer, as provided in subsection
16 (a) of this section, shall be determined by the director and
17 the director shall notify each employer of his benefit ratio
18 and his contribution rate no later than 31 days after the ef-
19 fective date of such rate. Such employer contribution rate for
20 the tax rate years beginning January 1, 1991, shall be deter-
21 mined from the appropriate rate schedule prescribed for that
22 tax rate year by the provisions of subsection (g) of this sec-
23 tion and shall be the rate which appears on the same horizon-
24 tal line on which is found the employer's benefit ratio.

TAX RATE TABLE

EMPLOYER TAX RATE SCHEDULE:

IF THE EM-
 PLOYER'S BEN-

4	LINE	EFIT RATIO				
5	NO.	IS:	A	B	C	D
6	1	0.00-0.39	0.20	0.35	0.50	0.65
7	2	0.40-0.59	0.35	0.50	0.65	0.80
8	3	0.60-0.79	0.50	0.70	0.90	1.00
9	4	0.80-0.99	0.70	0.90	1.10	1.20
10	5	1.00-1.19	0.85	1.10	1.30	1.40
11	6	1.20-1.39	1.00	1.30	1.55	1.65
12	7	1.40-1.59	1.15	1.50	1.75	1.90
13	8	1.60-1.79	1.30	1.70	1.95	2.15
14	9	1.80-1.99	1.45	1.90	2.15	2.40
15	10	2.00-2.19	1.60	2.10	2.40	2.65
16	11	2.20-2.39	1.75	2.30	2.60	2.85
17	12	2.40-2.59	1.90	2.50	2.80	3.10

1	13	2.60-2.79	2.05	2.70	3.05	3.35
2	14	2.80-2.99	2.20	2.90	3.25	3.60
3	15	3.00-3.19	2.35	3.10	3.50	3.85
4	16	3.20-3.59	2.50	3.40	3.80	4.20
5	17	3.60-3.99	2.80	3.80	4.25	4.70
6	18	4.00-4.39	3.10	4.20	4.70	5.20
7	19	4.40-4.79	3.40	4.60	5.10	5.70
8	20	4.80-5.19	3.70	5.00	5.50	6.20
9	21	5.20-5.59	4.00	5.40	6.00	6.70
10	22	5.60-5.99	4.30	5.40	6.00	6.70
11	23	6.00-6.39	4.60	5.40	6.10	6.80
12	24	6.40-6.79	4.90	5.40	6.10	6.80
13	25	6.80-7.19	5.20	5.40	6.10	6.80
14	26	7.20 or over	5.40	5.40	6.10	6.80

15 "The provisions of this subsection (f) to the con-
 16 trary notwithstanding, the rates of contribution shall, after
 17 having been determined as herein prescribed, be adjusted as
 18 follows for calendar quarters beginning after March 31, 1992
 19 and ending September 30, ~~2011~~ 2013:

1	If the rate of contribu-	
2	tion specified by the Tax	
3	Rate Table contained in	The employer's contribution rate
4	this section is:	shall be:
5	0.20	0.14
6	0.35	0.29
7	0.50	0.44
8	0.65	0.59
9	0.70	0.64
10	0.80	0.74
11	0.85	0.79
12	0.90	0.84
13	1.00	0.94
14	1.10	1.04
15	1.15	1.09
16	1.20	1.14
17	1.30	1.24
18	1.40	1.34
19	1.45	1.39
20	1.50	1.44
21	1.55	1.49

1	1.60	1.54
2	1.65	1.59
3	1.70	1.64
4	1.75	1.69
5	1.90	1.84
6	1.95	1.89
7	2.05	1.99
8	2.10	2.04
9	2.15	2.09
10	2.20	2.14
11	2.30	2.24
12	2.35	2.29
13	2.40	2.34
14	2.50	2.44
15	2.60	2.54
16	2.65	2.59
17	2.70	2.64
18	2.80	2.74
19	2.85	2.79
20	2.90	2.84
21	3.05	2.99

1	3.10	3.04
2	3.25	3.19
3	3.35	3.29
4	3.40	3.34
5	3.50	3.44
6	3.60	3.54
7	3.70	3.64
8	3.80	3.74
9	3.85	3.79
10	4.00	3.94
11	4.20	4.14
12	4.25	4.19
13	4.30	4.24
14	4.60	4.54
15	4.70	4.64
16	4.90	4.84
17	5.00	4.94
18	5.10	5.04
19	5.20	5.14
20	5.40	5.40
21	5.50	5.44

1	5.70	5.64
2	6.00	5.94
3	6.10	6.04
4	6.20	6.14
5	6.70	6.64
6	6.80	6.74

7 "The adjustment in rates of contributions as are
8 herein provided shall apply only to those employers who are
9 required to pay contributions by the provisions of Section
10 25-4-51 and those nonprofit organizations, hospitals,
11 educational institutions, agencies of the State of Alabama,
12 and political subdivisions of the state who have, under the
13 option permitted by Section 25-4-51, for that calendar year
14 elected to pay contributions. The adjustment shall not apply
15 to any employer who, because of insufficient unemployment
16 experience, has not become eligible to have his rate of
17 contribution determined by the method prescribed under this
18 subsection (f); whose rate of contribution is determined to be
19 5.4 percent, or is above 5.4 percent and by the application of
20 the adjustment would become a rate less than 5.4 percent; and
21 all employers who being eligible for such option have elected
22 the option to make payments in lieu of contributions.

1 "(g) Determination of contribution rate schedule.
2 Contribution rates for each employer, determined pursuant to
3 subsection (f) of this section, shall nevertheless be subject
4 to the contribution rate schedule as is hereinafter provided.

5 "(1) The "benefits payroll ratio" of the state for
6 each fiscal year shall be determined by dividing the total of
7 benefits paid, including the state's portion of benefits paid
8 under any extended benefit program, from the unemployment
9 compensation fund within the preceding fiscal year, less any
10 benefits paid for which payments in lieu of contributions have
11 been paid or are currently due to be paid, by the statewide
12 total payrolls of all employers upon which contributions on
13 the taxable portion thereof have been paid during the same
14 fiscal year, and by adjusting the quotient to the nearest
15 multiple of one-thousandth.

16 "(2) The desired level of unemployment compensation
17 fund for each fiscal year shall be one and four-tenths times
18 the amount determined by multiplying the highest statewide
19 total of payrolls of all employers upon which contributions on
20 the taxable portion thereof have been paid during any one of
21 the three most recent preceding fiscal years by the highest
22 benefits payroll ratio for any one of the 10 most recent
23 preceding fiscal years.

24 "(3) The director shall, on or before the December 1
25 next following the end of each fiscal year, declare effective

1 for the 12-month period beginning with January 1 of the
2 immediately succeeding calendar year, the desired level of the
3 fund and the schedule to be in effect for that 12-month
4 period. The contribution rate for each employer for the next
5 calendar year shall be determined by the director as provided
6 in subsection (f) of this section on the basis of each
7 employer's benefit ratio as determined under the provisions of
8 subsection (d) of this section; and whenever at the end of any
9 fiscal year, the fund balance is:

10 "a. One hundred twenty-five percent or more of the
11 desired level computed for the fiscal year, contribution rates
12 shall be determined under Schedule A;

13 "b. Equal to the desired level but is less than 125
14 percent thereof, contribution rates shall be determined under
15 Schedule B.

16 "c. Less than the desired level but is at least 70
17 percent thereof, contribution rates shall be determined under
18 Schedule C.

19 "d. Less than 70 percent of the desired level,
20 contribution rates shall be determined under Schedule D.

21 "(4) Any amount credited to this state's account
22 under Section 903 of the Social Security Act, as amended,
23 which has been appropriated for expenses of administration,
24 whether or not withdrawn from the trust fund, shall be
25 included in the trust fund balance in determining whether or

1 not such fund is greater or less than the desired level of the
2 fund for a fiscal year; except, that any amount appropriated
3 and withdrawn which will not be repaid to the fund shall not
4 be included in such balances.

5 "(5) The director shall notify each employer of such
6 declaration and of his benefit ratio and his contribution rate
7 no later than 31 days after the effective date of the
8 contribution rate. This subdivision (5) shall not apply to
9 employers who, in lieu of contributions, reimburse the fund
10 for benefits paid.

11 "(h) Review of contribution rate, etc. Any employer
12 may apply to the director for and shall be entitled to a
13 review as to the determination of his benefit ratio and his
14 contribution rate as fixed by his benefit ratio, provided such
15 application is filed within 30 days of the date of the mailing
16 by the director to the employer of the notice of such
17 determination. Pending such review, such employer shall make
18 all contribution payments otherwise required by this chapter
19 at contribution rates fixed by the determination sought to be
20 reviewed and resulting overpayments or underpayments of
21 contributions by the employer shall, upon any redetermination,
22 be adjusted or refunded pursuant to Section 25-4-137. Any
23 employer may within 30 days after the date of mailing by the
24 director to such employer of notice of the ruling of the
25 director upon such application for review appeal such ruling

1 to the circuit court of any county wherein the employer is
2 engaged in doing business, upon such terms and upon giving
3 such security for costs as the court may upon application
4 prescribe. Trial in that court shall be de novo with respect
5 to his benefit ratio.

6 "(i) Contribution rate, etc., of successor employer.
7 For the purpose of this section, an employer's benefit charges
8 and that part of his taxable payroll with respect to which
9 contributions have been paid, shall be deemed benefit charges
10 and taxable payrolls of a successor employer and shall be
11 taken into account in determining the contribution rate of
12 such successor employer as provided in subsection (f) of this
13 section, if such successor succeeds the employer in any of the
14 manners set out in paragraph (a)(4)a of Section 25-4-8;
15 provided, that an employer subject to this chapter who becomes
16 such in any of the manners set out in paragraph (a)(4)b of
17 Section 25-4-8 may have that portion of his predecessor's
18 benefit charges and that part of his predecessor's total
19 taxable payroll, with respect to which contributions have been
20 paid which correspond to the segregable portion of the
21 business assets and payroll thereof, acquired from his
22 predecessor, deemed to be his benefit charges and his payroll
23 and such shall be taken into account in determining his rates,
24 as provided in subsection (f) of this section; provided, that
25 he:

1 "(1) Makes written application within 90 calendar
2 days from the date of such acquisition; and

3 "(2) Furnishes to the director within 120 calendar
4 days from the date of such acquisition a transcript of such
5 total and taxable payrolls which correspond to the segregable
6 portion acquired from his predecessor; provided further that
7 in the event that within the intervening 120 days a notice of
8 his rate of contribution has been mailed to the partial
9 successor, the 30-day finality provision set forth in
10 subsection (h) of this section shall not prevail but, instead,
11 be effective with respect to the subsequent notice computed on
12 the basis of the benefit ratio and taxable payrolls of the
13 acquired segregable portion."

14 Section 2. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.

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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 04-MAY-11.

Greg Pappas
Clerk

Senate

02-JUN-11

Passed