

1 HB90
2 145867-2
3 By Representative Williams (J)
4 RFD: Commerce and Small Business
5 First Read: 05-FEB-13
6 PFD: 02/01/2013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENROLLED, An Act,

To amend Sections 25-4-40.1 and 25-4-54, Code of Alabama 1975, relating to unemployment compensation; to delete the termination date of the six one-hundredths of one percent special assessment placed on wages paid to certain employees by employers for deposit into the Employment Security Enhancement Fund; to change references to the Director of Industrial Relations to the Commissioner of Labor; and to make nonsubstantive technical and language changes.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 25-4-40.1 and 25-4-54 of the Code of Alabama 1975, are amended to read as follows:

"§25-4-40.1.

"(a) Retroactive to April 1, 1992, ~~and ending September 30, 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% percent (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% percent but not more than 5.45% percent for

1 such calendar year, to any employer who for such calendar year
2 has elected to make payments in lieu of contributions pursuant
3 to ~~the provisions contained in~~ Section 25-4-51, nor to any
4 employer who has not had sufficient unemployment experience to
5 qualify for a rate determination under Section 25-4-54 for
6 such calendar year.

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

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

23 "(3) All moneys collected as assessments pursuant to
24 ~~the provisions of~~ this section shall be promptly deposited in
25 the clearing account of the Unemployment Compensation Fund

1 only for the purpose of transfer and, as soon as practicable
2 to do so, shall be transferred into the "Employment Security
3 Enhancement Fund" in the State Treasury.

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

21 "(c) The moneys in the Employment Security
22 Enhancement Fund are authorized and, are hereby appropriated,
23 for use by the ~~director~~ commissioner as follows:

24 "(1) Special claimant assistance program.

1 "a. Moneys in this fund may be expended to
2 supplement basic employment security services with special job
3 search and job placement assistance designed to assist
4 unemployment compensation claimants obtain employment.

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

16 "c. The duties of the overview committee shall
17 include the initial planning of the claimant assistance
18 program as to content and procedures, the determination of
19 standards, criteria, statistical requirements, and reporting
20 needs, monitoring the progress of the program, and measuring
21 the results and making recommendations to the ~~director~~
22 commissioner.

23 "d. All members of this committee shall serve
24 without remuneration, however, shall be reimbursed for any and
25 all necessary expenses incurred during the performance of

1 their duties in the same manner and under the same regulations
2 as apply to state employees. Such expenses are to be paid from
3 the Employment Security Enhancement Fund.

4 "(2) General administration and enhancement of
5 employment security. Necessary and appropriate costs of
6 employment security enhancements, not in conflict with the
7 foregoing or state or federal laws, rules, or regulations, may
8 be paid from this fund at the discretion of the ~~director~~
9 commissioner.

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

13 "(4) The ~~director~~ commissioner shall submit a
14 special report at the end of each calendar year to the
15 Governor, Lieutenant Governor, and the Speaker of the House of
16 Representatives giving an accounting of collections and
17 expenditures, and an assessment of the success of programs
18 funded from this source.

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

21 "(e) In the event there is a cessation of the
22 activities and purposes of the programs to be funded by moneys
23 from this fund, all remaining moneys in the Employment
24 Security Enhancement Fund, within 90 calendar days after all
25 outstanding obligations of the ~~director~~ commissioner related

1 to this fund have been fulfilled, shall be transferred into
2 the state's Unemployment Compensation Trust Fund on deposit
3 with the U.S. Treasury.

4 "§25-4-54.

5 "(a) Determination of contribution rates.

6 "(1) For the 12-month period beginning on January 1
7 of each year which begins after December 31, 1996, any
8 employer whose experience rating account has been subject to
9 benefit charges throughout at least the fiscal year, as
10 defined in Section 25-4-4, immediately preceding such January
11 1, shall have his or her rate determined by the Unemployment
12 Compensation Fund's liability for benefits paid to his or her
13 employees, modified by the fund's balance as of the most
14 recent June 30. The employment record of an organization which
15 has been making payments in lieu of contributions but which
16 elects to change to payment of contributions shall be deemed
17 to have been chargeable with benefits throughout the period
18 (not to exceed three fiscal years) with respect to which it
19 was making payments in lieu of contributions and its benefit
20 charges and payrolls for such period shall be used in
21 computing its benefit ratio pursuant to subsection (d) ~~of this~~
22 ~~section.~~

23 "(2) For the 12-month period beginning on January 1
24 of each calendar year which begins before January 1, 1997, the

1 rates of contribution shall be determined as was prescribed by
 2 this section prior to January 1, 1997.

3 "(b) Determination of individual benefit charges.

4 "(1) An individual's "benefit charges" shall be as
 5 follows:

6 "a. For each week benefits are paid, an individual's
 7 "benefit charges" shall be equal to the amount of benefits he
 8 or she was paid for such week.

9 "b. For each week extended benefits pursuant to
 10 Section 25-4-75 are paid to an individual, the "benefit
 11 charges" shall be equal to the state's share of such benefits
 12 paid to him or her for such weeks; provided, however, where an
 13 individual's benefit charges for extended benefits are
 14 attributable to service in the employ of any governmental
 15 entity, as defined in paragraph (a)(2)b of Section 25-4-10,
 16 the individual's "benefit charges" shall be an amount equal to
 17 the benefits he or she was paid for such week.

18 "(2) Any benefits paid to an individual based on
 19 wages paid to an employee during his or her base period for
 20 part-time employment by an employer who continues to give the
 21 employee employment to the same extent while he or she is
 22 receiving benefits as he or she did during his or her base
 23 period shall not be determined to be the individual's benefit
 24 charges. The employer shall establish the continuation of work
 25 to the satisfaction of the ~~director~~ commissioner by submitting

1 such information as the ~~director~~ commissioner may require
2 within the time required by other provisions of this chapter
3 after the date of notification or mailing of notice by the
4 ~~director~~ commissioner that the employee has first filed a
5 claim for benefits.

6 "(3) If benefits paid to an individual are based on
7 wages paid by two or more employers, the amount of the
8 individual's benefit charges applicable to any one employer
9 shall be an amount which bears the same ratio to the total
10 benefit charges as the total base period wages paid by such
11 employer to the individual and used for the payment of
12 benefits bears to the total base period wages paid to the
13 individual by all his or her base period employers and used
14 for the payment of benefits.

15 "(4) When, in the determination of any individual's
16 benefits, wages have been properly included once for one
17 benefit year or for one base period, such wages shall not
18 thereafter be included again in the computation of his or her
19 benefits for any other benefit year or in his or her wages for
20 any other base period respectively.

21 "(c) Determination of employer benefit charges.

22 "(1) An employer's benefit charges for each and
23 every fiscal year shall be the total of the regular benefits
24 and the state's share of the extended benefits paid during
25 such fiscal year to all of his or her employees or former

1 employees which are attributable to wages paid by such
2 employer to his or her employees or former employees, ~~7,~~ except
3 as is provided by paragraph a. of subdivision (a) (5) of
4 Section 25-4-51 for governmental entities.

5 "(2) The ~~director~~ commissioner shall analyze the
6 benefit payments in each fiscal year and determine each
7 employer's benefit charges for each fiscal year.

8 "(3) The ~~director~~ commissioner shall, after the
9 close of each calendar quarter, furnish each employer with a
10 statement of the benefits paid to his or her workers, or
11 former workers, which became his or her benefit charges in
12 that calendar quarter, together with the names of such
13 workers, or former workers, and such statement, in the absence
14 of an application for a revision thereof within 30 days of the
15 mailing of such statement to the employer's last known
16 address, shall be conclusive and final upon the employer for
17 all purposes and in all proceedings whatsoever. Such
18 application for revision shall be in the form and manner
19 prescribed by regulation of the ~~director~~ commissioner. Upon
20 receipt of, within the time allowed, an application for
21 revision of such statement, the ~~director~~ commissioner shall
22 allow such application in whole or in part, or shall deny such
23 application and shall serve notice upon the employer of such
24 decision. Such decision of the ~~director~~ commissioner shall be
25 final and conclusive on the employer at the expiration of 30

1 days from the date of service of such notice, unless the
2 employer shall within the 30-day period file with the ~~director~~
3 commissioner a written protest and a petition for hearing,
4 specifying his or her objections thereto. Upon receipt of such
5 petition the ~~director~~ commissioner shall fix a time and place
6 for a hearing and shall notify the employer thereof. At any
7 hearing held as herein provided, the decision of the ~~director~~
8 commissioner shall be prima facie correct, and the burden
9 shall be upon the protesting employer to prove it is
10 incorrect. No employer shall have the right to object to the
11 benefit charges with respect to any worker as shown on such
12 statement, unless he or she shall first show that such charges
13 arose as a result of benefits paid to such worker in
14 accordance with a determination, or a redetermination, to
15 which such employer was a party entitled to notice thereof, as
16 provided by Article 5, commencing with Section 25-4-90, of
17 this chapter, and shall further show that he or she was not
18 notified of such determination or redetermination in
19 accordance with the requirements of Article 5, commencing with
20 Section 25-4-90, of this chapter. Nothing herein contained
21 shall affect the right of any employer at such hearing to
22 object to such statement of benefit charges on the ground that
23 it is incorrect by reason of a clerical error made by the
24 ~~director~~ commissioner or any of his or her employees. The
25 employer shall be promptly notified by mail of the ~~director's~~

1 decision of the commissioner. Such decision shall be final and
2 conclusive unless an appeal is taken therefrom in the manner
3 and within the time prescribed in subsection (h) ~~of this~~
4 ~~section~~.

5 "(4) Nothing contained in subdivision (3) ~~of this~~
6 ~~subsection (c)~~ shall be construed as limiting or affecting in
7 any manner the right and authority of the ~~director~~
8 commissioner to remove benefit charges from any employer's
9 account upon discovering or being aware of any such employer's
10 workers or former workers having drawn benefits by reason of
11 false representation of their earnings while filing claims for
12 benefits nor to make any corrections resulting from any
13 adjustment to benefits paid to the individual.

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

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

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

24 "c. The benefits are paid from the Alabama U.I.
25 Trust Fund to claimants who would have been eligible for

1 disaster unemployment assistance under this act, if they have
2 not first received Alabama unemployment insurance benefits
3 with respect to their unemployment.

4 "(d) Determination of employer benefit ratio.
5 Effective January 1, 1997, and each year thereafter, the
6 benefit ratio of each employer who qualifies for a rate
7 determination under subdivision (a) (1) ~~of this section~~ and has
8 been chargeable with benefits throughout the three most recent
9 preceding fiscal years shall be a percentage obtained by
10 dividing the total of his or her benefit charges for such
11 three-year period by that part of his or her total taxable
12 payroll for the same three-year period with respect to which
13 contributions have been paid on or before July 31, next
14 following such period, and the benefit ratio of each employer
15 who qualifies for a rate determination under subdivision
16 (a) (1) ~~of this section~~, but who has not been subject to this
17 chapter for a period of time sufficient to have been
18 chargeable with benefits throughout the three most recent
19 preceding fiscal years, shall be a percentage obtained by
20 dividing the total of his or her benefit charges for the
21 period throughout which he or she has been chargeable, such
22 period to be not less than the most recent preceding fiscal
23 year by that part of his or her total taxable payroll for the
24 same period with respect to which contributions have been paid
25 on or before July 31 next following such period. The employers

1 benefit ratio shall be computed to the fourth decimal and be
2 used in determining each employer's contribution rate as
3 prescribed in subsection (a) ~~of this section~~ for the next
4 calendar year; except that:

5 "For tax rate year beginning January 1, 1991, the
6 employer's benefit ratio shall be determined by the employer's
7 actual benefit charges to his or her account for the fiscal
8 year ending September 30, 1990, and for fiscal years ending
9 September 30, 1988, and September 30, 1989, the employer's
10 benefit charges shall be determined from data accumulated by
11 the ~~director~~ commissioner during such years relative to
12 benefit wage charges and converted to benefit charges, in such
13 manner as the ~~director~~ commissioner shall prescribe.

14 "(e) Shared costs.

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

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

23 "b. The total amount of the difference between the
24 benefit charges to all employers during the fiscal year who
25 are assigned the maximum rate of contribution under any one of

1 the rate schedules for the calendar year next following such
 2 fiscal year and the total amount of contributions received
 3 from all such maximum rated employers during the same fiscal
 4 year; and

5 "c. Credits granted employers during such fiscal
 6 year because of the reason for separation (as provided in
 7 Section 25-4-78), continued part-time work, as provided by
 8 subdivision (b) (2) ~~of this section~~, and relief from charges
 9 granted an employer under ~~the provisions of~~ subdivision (c) (4)
 10 ~~of this section~~; and

11 "d. Benefit overpayments which have been declared
 12 uncollectible or have been waived by the ~~director~~ commissioner
 13 during the fiscal year pursuant to the applicable provisions
 14 of this chapter; and

15 "e. Contributions due from employers but not paid
 16 and which have been, during such fiscal year, declared
 17 uncollectible by the bankruptcy courts or official action by
 18 the ~~director~~ commissioner; and

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

22 "(2) The total of the amounts determined under ~~the~~
 23 ~~provisions of~~ subdivision (1) ~~above~~ shall be the statewide
 24 total shared cost for any fiscal year.

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

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

6 "b. The total amount of the difference between the
7 contributions received from all employers during such fiscal
8 year who are assigned the minimum rate of contributions under
9 any one of the rate schedules for the calendar year next
10 following such fiscal year and the total of all benefit
11 charges made to all such minimum rated employers during the
12 same fiscal year.

13 "(4) To determine the "shared cost ratio" for any
14 fiscal year, the net shared cost for such fiscal year shall be
15 divided by the statewide total of taxable wages for the same
16 fiscal year which have been reported by all contributory
17 employers and upon which contributions have been timely paid
18 (reduced by the total of the taxable wages reported and timely
19 paid on by any employer or employers for the same fiscal year,
20 who by the provisions of subdivision (5) ~~of this subsection~~
21 ~~(e)~~ are relieved of the shared cost assessment). The resulting
22 quotient adjusted to the nearest multiple of one-thousandth
23 shall be the "shared cost ratio" applicable for assessment to
24 all contributory employers for the next following calendar
25 year.

1 "(5)a. Except as is hereinafter provided, the shared
2 cost ratio as computed under the above provision for each
3 fiscal year shall, for the next calendar year, be assessed
4 each employer eligible for a rate determination under ~~the~~
5 ~~provision of subdivision (a)(1) of this section,~~ in addition
6 to the rate of contributions determined by the tables
7 contained in subsection (f) ~~of this section.~~

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

12 "2. Any employer whose rate of contribution has been
13 determined to be the minimum rate allowed under Schedule B for
14 a calendar year and whose experience rating account has not
15 been charged with any benefits during the three immediately
16 preceding fiscal years, shall be relieved of any shared cost
17 assessment for that calendar year;

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

21 "b. The assessment for shared costs shall become due
22 and payable at the same time and in the same manner as
23 contributions.

24 "c. The authority of the ~~director~~ commissioner to
25 enforce collection of any shared cost assessment shall be the

1 same as is provided in this chapter for the enforcement of the
 2 collections of contributions.

3 "(f) Notice of contribution rate, etc.; maximum
 4 rate. The contribution rates (expressed as a percentage of
 5 taxable wages) for each employer, as provided in subsection
 6 (a) ~~of this section~~, shall be determined by the ~~director~~ com-
 7 missioner and the ~~director~~ commissioner shall notify each em-
 8 ployer of his or her benefit ratio and his or her contribution
 9 rate no later than 31 days after the effective date of such
 10 rate. Such employer contribution rate for the tax rate years
 11 beginning January 1, 1991, shall be determined from the appro-
 12 priate rate schedule prescribed for that tax rate year by ~~the~~
 13 ~~provisions of~~ subsection (g) ~~of this section~~ and shall be the
 14 rate which appears on the same horizontal line on which is
 15 found the employer's benefit ratio.

16 TAX RATE TABLE

17 EMPLOYER TAX RATE SCHEDULE:

18

	IF THE EM-					
19	LINE	PLOYER'S BEN-				
20	NO.	EFIT RATIO	A	B	C	D

IS:

21	1	0.00-0.39	0.20	0.35	0.50	0.65
22	2	0.40-0.59	0.35	0.50	0.65	0.80
23	3	0.60-0.79	0.50	0.70	0.90	1.00
24	4	0.80-0.99	0.70	0.90	1.10	1.20
25	5	1.00-1.19	0.85	1.10	1.30	1.40
26	6	1.20-1.39	1.00	1.30	1.55	1.65
27	7	1.40-1.59	1.15	1.50	1.75	1.90
28	8	1.60-1.79	1.30	1.70	1.95	2.15
29	9	1.80-1.99	1.45	1.90	2.15	2.40
30	10	2.00-2.19	1.60	2.10	2.40	2.65
31	11	2.20-2.39	1.75	2.30	2.60	2.85
32	12	2.40-2.59	1.90	2.50	2.80	3.10
33	13	2.60-2.79	2.05	2.70	3.05	3.35
34	14	2.80-2.99	2.20	2.90	3.25	3.60
35	15	3.00-3.19	2.35	3.10	3.50	3.85
36	16	3.20-3.59	2.50	3.40	3.80	4.20
37	17	3.60-3.99	2.80	3.80	4.25	4.70
38	18	4.00-4.39	3.10	4.20	4.70	5.20
39	19	4.40-4.79	3.40	4.60	5.10	5.70
40	20	4.80-5.19	3.70	5.00	5.50	6.20

1	21	5.20-5.59	4.00	5.40	6.00	6.70
2	22	5.60-5.99	4.30	5.40	6.00	6.70
3	23	6.00-6.39	4.60	5.40	6.10	6.80
4	24	6.40-6.79	4.90	5.40	6.10	6.80
5	25	6.80-7.19	5.20	5.40	6.10	6.80
6	26	7.20 or over	5.40	5.40	6.10	6.80

7 "The provisions of this subsection (f) to the con-
 8 trary notwithstanding, the rates of contribution shall, after
 9 having been determined as herein prescribed, be adjusted as
 10 follows for calendar quarters beginning after March 31, 1992
 11 ~~and ending September 30, 2013:~~

12 If the rate of contribu-
 13 tion specified by the Tax

14 Rate Table contained in The employer's contribution rate
 15 this section is: shall be:

16	0.20	0.14
17	0.35	0.29
18	0.50	0.44
19	0.65	0.59
20	0.70	0.64

1	0.80	0.74
2	0.85	0.79
3	0.90	0.84
4	1.00	0.94
5	1.10	1.04
6	1.15	1.09
7	1.20	1.14
8	1.30	1.24
9	1.40	1.34
10	1.45	1.39
11	1.50	1.44
12	1.55	1.49
13	1.60	1.54
14	1.65	1.59
15	1.70	1.64
16	1.75	1.69
17	1.90	1.84
18	1.95	1.89
19	2.05	1.99
20	2.10	2.04
21	2.15	2.09

1	2.20	2.14
2	2.30	2.24
3	2.35	2.29
4	2.40	2.34
5	2.50	2.44
6	2.60	2.54
7	2.65	2.59
8	2.70	2.64
9	2.80	2.74
10	2.85	2.79
11	2.90	2.84
12	3.05	2.99
13	3.10	3.04
14	3.25	3.19
15	3.35	3.29
16	3.40	3.34
17	3.50	3.44
18	3.60	3.54
19	3.70	3.64
20	3.80	3.74
21	3.85	3.79

1	4.00	3.94
2	4.20	4.14
3	4.25	4.19
4	4.30	4.24
5	4.60	4.54
6	4.70	4.64
7	4.90	4.84
8	5.00	4.94
9	5.10	5.04
10	5.20	5.14
11	5.40	5.40
12	5.50	5.44
13	5.70	5.64
14	6.00	5.94
15	6.10	6.04
16	6.20	6.14
17	6.70	6.64
18	6.80	6.74

19 "The adjustment in rates of contributions as are
20 herein provided shall apply only to those employers who are

1 required to pay contributions by the provisions of Section
2 25-4-51 and those nonprofit organizations, hospitals,
3 educational institutions, agencies of the State of Alabama,
4 and political subdivisions of the state who have, under the
5 option permitted by Section 25-4-51, for that calendar year
6 elected to pay contributions. The adjustment shall not apply
7 to any employer who, because of insufficient unemployment
8 experience, has not become eligible to have his or her rate of
9 contribution determined by the method prescribed under this
10 subsection (f); whose rate of contribution is determined to be
11 5.4 percent, or is above 5.4 percent and by the application of
12 the adjustment would become a rate less than 5.4 percent; and
13 all employers who being eligible for such option have elected
14 the option to make payments in lieu of contributions.

15 "(g) Determination of contribution rate schedule.
16 Contribution rates for each employer, determined pursuant to
17 subsection (f) ~~of this section~~, shall nevertheless be subject
18 to the contribution rate schedule as is hereinafter provided.

19 "(1) The "benefits payroll ratio" of the state for
20 each fiscal year shall be determined by dividing the total of
21 benefits paid, including the state's portion of benefits paid
22 under any extended benefit program, from the unemployment
23 compensation fund within the preceding fiscal year, less any
24 benefits paid for which payments in lieu of contributions have
25 been paid or are currently due to be paid, by the statewide

1 total payrolls of all employers upon which contributions on
2 the taxable portion thereof have been paid during the same
3 fiscal year, and by adjusting the quotient to the nearest
4 multiple of one-thousandth.

5 "(2) The desired level of unemployment compensation
6 fund for each fiscal year shall be one and four-tenths times
7 the amount determined by multiplying the highest statewide
8 total of payrolls of all employers upon which contributions on
9 the taxable portion thereof have been paid during any one of
10 the three most recent preceding fiscal years by the highest
11 benefits payroll ratio for any one of the 10 most recent
12 preceding fiscal years.

13 "(3) The ~~director~~ commissioner shall, on or before
14 the December 1 next following the end of each fiscal year,
15 declare effective for the 12-month period beginning with
16 January 1 of the immediately succeeding calendar year, the
17 desired level of the fund and the schedule to be in effect for
18 that 12-month period. The contribution rate for each employer
19 for the next calendar year shall be determined by the ~~director~~
20 commissioner as provided in subsection (f) ~~of this section~~ on
21 the basis of each employer's benefit ratio as determined under
22 ~~the provisions of subsection (d) of this section;~~ and whenever
23 at the end of any fiscal year, the fund balance is:

1 "a. One hundred twenty-five percent or more of the
2 desired level computed for the fiscal year, contribution rates
3 shall be determined under Schedule A7.

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

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

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

12 "(4) Any amount credited to this state's account
13 under Section 903 of the Social Security Act, as amended,
14 which has been appropriated for expenses of administration,
15 whether or not withdrawn from the trust fund, shall be
16 included in the trust fund balance in determining whether or
17 not such fund is greater or less than the desired level of the
18 fund for a fiscal year; except, that any amount appropriated
19 and withdrawn which will not be repaid to the fund shall not
20 be included in such balances.

21 "(5) The ~~director~~ commissioner shall notify each
22 employer of such declaration and of his or her benefit ratio
23 and his or her contribution rate no later than 31 days after
24 the effective date of the contribution rate. This subdivision

1 (5) shall not apply to employers who, in lieu of
2 contributions, reimburse the fund for benefits paid.

3 "(h) Review of contribution rate, etc. Any employer
4 may apply to the ~~director~~ commissioner for and shall be
5 entitled to a review as to the determination of his or her
6 benefit ratio and his or her contribution rate as fixed by his
7 or her benefit ratio, provided such application is filed
8 within 30 days of the date of the mailing by the ~~director~~
9 commissioner to the employer of the notice of such
10 determination. Pending such review, such employer shall make
11 all contribution payments otherwise required by this chapter
12 at contribution rates fixed by the determination sought to be
13 reviewed and resulting overpayments or underpayments of
14 contributions by the employer shall, upon any redetermination,
15 be adjusted or refunded pursuant to Section 25-4-137. Any
16 employer may within 30 days after the date of ~~mailing~~
17 notification by the ~~director~~ commissioner to such employer of
18 notice of the ruling of the ~~director~~ commissioner upon such
19 application for review appeal such ruling to the circuit court
20 of any county wherein the employer is engaged in doing
21 business, upon such terms and upon giving such security for
22 costs as the court may upon application prescribe. Trial in
23 that court shall be de novo with respect to his or her benefit
24 ratio.

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

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

23 "(2) Furnishes to the ~~director~~ commissioner within
24 120 calendar days from the date of such acquisition a
25 transcript of such total and taxable payrolls which correspond

1 to the segregable portion acquired from his or her
2 predecessor; provided further that in the event that within
3 the intervening 120 days a notice of his or her rate of
4 contribution has been mailed to the partial successor, the
5 30-day finality provision set forth in subsection (h) ~~of this~~
6 ~~section~~ shall not prevail but, instead, be effective with
7 respect to the subsequent notice computed on the basis of the
8 benefit ratio and taxable payrolls of the acquired segregable
9 portion."

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

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 26-FEB-13.

Jeff Woodard
Clerk

Senate

02-MAY-13

Passed