

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
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As Engrossed: H2/22/23

A Bill

HOUSE BILL 1430

By: Representatives Lundstrum, *Beaty Jr.*, *Bentley*, *Burkes*, *C. Cooper*,
Duffield, *Haak*, *D. Hodges*, *Ladyman*, *Long*, *Maddox*, *McCollum*, *Pilkington*, *Ray*,
R. Scott Richardson, *Rye*, *Underwood*, *Unger*
By: Senators *K. Hammer*, *M. McKee*, *D. Wallace*

For An Act To Be Entitled

AN ACT TO AMEND THE DIVISION OF WORKFORCE SERVICES LAW; TO MODIFY THE DEFINITION OF "WAGES" IN CERTAIN CIRCUMSTANCES UNDER THE DIVISION OF WORKFORCE SERVICES LAW; TO REDUCE THE MAXIMUM POTENTIAL UNEMPLOYMENT COMPENSATION BENEFITS; TO REGULATE EMPLOYER CONTRIBUTIONS UNDER THE DIVISION OF WORKFORCE SERVICES LAW; TO REVISE THE STABILIZATION TAX RATE; TO AMEND THE LAW CONCERNING THE UNEMPLOYMENT COMPENSATION FUND, THE DIVISION OF WORKFORCE SERVICES TRAINING TRUST FUND, AND THE UNEMPLOYMENT INSURANCE ADMINISTRATION FUND; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

TO AMEND THE DIVISION OF WORKFORCE SERVICES LAW; AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 11-10-215(a)(2)(A)(i), concerning the definition of "wages" and the taxable wage base under the Division of Workforce Services Law, is amended to add additional subdivisions to read as



follows:

(f) For a calendar year beginning on or after January 1, 2024, "wages" shall not include remuneration that exceeds the lesser of:

(1) Seven thousand dollars (\$7,000) but only if as of June 30 of the most recently completed state fiscal year the balance of the unemployment insurance trust fund is in excess of six hundred million dollars (\$600,000,000); or

(2) The amount calculated under subdivisions (a)(2)(A)(i)(d)(1)-(3) of this section.

(g) For any calendar year beginning after December 31, 2023, when calculating the amount to determine remuneration constituting wages, then the amount that is included as wages shall not exceed the sum of two thousand dollars (\$2,000) and the amount applicable to the immediately preceding calendar year.

SECTION 2. Arkansas Code § 11-10-504(a), concerning the maximum potential benefits payable in a benefit year, is amended to read as follows:

(a)(1) For initial claims filed on or after January 1, 2018, the maximum potential benefits of an insured worker in a benefit year shall be the amount equal to the lesser of:

~~(1)(A)~~ Sixteen (16) times his or her weekly benefit amount; or

~~(2)(B)~~ One-third ($\frac{1}{3}$) of his or her wages for insured work in his or her base period.

(2) For initial claims filed on or after January 1, 2024, the maximum potential benefits of an insured worker in a benefit year shall be the amount equal to the lesser of:

(A) Twelve (12) times his or her weekly benefit amount; or

(B) One-third ($\frac{1}{3}$) of his or her wages for insured work in his or her base period.

SECTION 3. Arkansas Code § 11-10-704 is amended to read as follows:
11-10-704. Future rates – Experience rates generally.

(a) The Director of the Division of Workforce Services shall, for each calendar year, classify employers in accordance with their actual experience

in the payment of contributions on their own behalf and with respect to regular benefits charged against their accounts, with a view to fixing the contribution rates as will reflect their experience.

(b)(1) ~~The~~ Except as provided in subsection (c) of this section, the director shall determine the contribution rates of each employer in accordance with the requirements of this section and § 11-10-705+.

~~(1)(2)(A)~~ Each employer's rate shall be two and nine-tenths percent (2.9%) except as otherwise provided in the other provisions of this subchapter.

~~(A)(i)(B)(i)(a)~~ No employer's rate shall be less than two and nine-tenths percent (2.9%) unless and until there ~~shall~~ have been three (3) years immediately preceding the computation date throughout which an individual in the employer's employ could have received benefits if eligible.

(b) Provided, however, an employer who, at the time of establishing an account, is in business in another state or states and who is not currently doing business in Arkansas may elect to receive a beginning contribution rate of two and nine-tenths percent (2.9%) or a contribution rate based on the rate schedule at § 11-10-705(b)(1), whichever is lower, but in no event less than one percent (1%), provided:

~~(a)(1)~~ The employer has been in operation in the other state or states for at least three (3) years immediately preceding the date of becoming a liable employer in Arkansas, throughout which an individual in the employer's employ could have received benefits if eligible;

~~(b)(2)~~ The employer must provide the authenticated account history from information accumulated from operations in the other state or ~~all the other~~ states to compute a current Arkansas rate; and

~~(c)(3)~~ The employer's business operations established in Arkansas are of the same nature as conducted in the other state or states, as defined by the North American Industry Classification System.

(ii)(a) The election authorized in subdivision ~~(b)(1)(A)(i)(b)(1)(B)(i)~~ of this section must be made in writing within thirty (30) days after receiving notice of Arkansas liability.

(b) A two-and-nine-tenths-percent rate will be

assigned unless a timely election has been made.

(iii) If the election is made timely, the employer's account will receive the rate elected for the remainder of that rate year. The rate assigned for the next and subsequent years will be determined by the condition of the account on the computation date.

~~(B)~~(C) However, any employer having no covered employment under this chapter for any calendar year shall have a rate equal to his or her most recently determined contribution rate until the employer has one (1) full year of benefit risk experience immediately preceding the computation date.

~~(2)(A)~~(3)(A) Notwithstanding any other provisions of §§ 11-10-701 – 11-10-715, if the director determines that an employer has willfully submitted false information which is material with respect to the employment or separation from employment of any claimant, employee, or former employee, for the purpose of preventing regular benefit charges to the employer's account, the employer shall be assessed a penalty equivalent to twice the amount of the claimant's maximum potential benefit amount.

(B) This ~~charge~~ penalty shall be charged against the employer's account for experience rating purposes, regardless of whether or not the employer is a base-period employer and irrespective of the identity or number of base-period employers.

~~(3)~~(4) An employer who changes from reimbursement to the contributory method of financing shall be considered a new or newly covered employer and can be entitled to an experience rate only when the new or newly covered employer has met the requirements of this subsection.

~~(4)~~(5) Each employer's rate beginning January 1 for each twelve-month period shall be determined on the basis of the employer's record through June 30 of the previous calendar year.

(c)(1) The director shall determine the contribution rates of each employer according to the requirements of this section and § 11-10-705.

(2)(A) For any calendar year beginning on or after January 1, 2024, each employer's rate shall be one and nine-tenths percent (1.9%) except as otherwise provided in this subchapter.

(B)(i)(a) An employer's rate shall not be less than one and nine-tenths percent (1.9%) unless and until there have been three (3) years immediately preceding the computation date throughout which an

individual in the employer's employ could have received benefits, if eligible.

(b) Provided, however, an employer who, at the time of establishing an account, is in business in another state or states and who is not currently doing business in Arkansas may elect to receive a beginning contribution rate of one and nine-tenths percent (1.9%) or a contribution rate based on the rate schedule in § 11-10-705(b)(1), whichever is lower, but in no event less than one percent (1%), provided:

(1) The employer has been in operation in the other state or states for at least three (3) years immediately preceding the date of becoming a liable employer in Arkansas, throughout which an individual in the employer's employ could have received benefits, if eligible;

(2) The employer must provide the authenticated account history from information accumulated from operations in the other state or states to compute a current Arkansas rate; and

(3) The employer's business operations established in Arkansas are of the same nature as conducted in the other state or states, as defined by the North American Industry Classification System.

(ii)(a) The election authorized in subdivision (c)(2)(B)(i) of this section must be made in writing within thirty (30) days after receiving notice of Arkansas liability.

(b) A one-and-nine-tenths-percent rate will be assigned unless a timely election has been made.

(iii)(a) If the election is timely made, the employer's account will receive the rate elected for the remainder of that rate year.

(b) The rate assigned for the next and subsequent years will be determined by the condition of the account on the computation date.

(C)(1) However, any employer having no covered employment under this chapter for any calendar year shall have a rate equal to his or her most recently determined contribution rate until the employer has one (1) full year of benefit risk experience immediately preceding the computation date.

(2)(A) Notwithstanding any other provisions of §§ 11-10-701 – 11-10-715, if the director determines that an employer has willfully submitted false information that is material with respect to the employment or separation from employment of any claimant, employee, or former employee, for the purpose of preventing regular benefit charges to the employer's account, the employer shall be assessed a penalty equivalent to twice the amount of the claimant's maximum potential benefit amount.

(B) This penalty shall be charged against the employer's account for experience rating purposes, regardless of whether or not the employer is a base-period employer and irrespective of the identity or number of base-period employer.

(3) An employer who changes from reimbursement to the contributory method of financing shall be considered a new or newly covered employer and can be entitled to an experience rate only when the new or newly covered employer has met the requirements of this subsection.

(4) Each employer's rate beginning January 1 for each twelve-month period shall be determined on the basis of the employer's record through June 30 of the previous calendar year.

SECTION 4. Arkansas Code § 11-10-705(a)(2), concerning the computation of employer contribution rates, is amended to read as follows:

(2) The record of an employer shall include, for the purpose of computing an employer's contribution rate, any payment, except a payment that represents ~~a stabilization tax~~ an administration assessment payment or a payment that represents an extended benefit tax payment, made by the employer on or before July 31 on wages paid by the employer on or before June 30 of the calendar year.

SECTION 5. Arkansas Code § 11-10-705(b), concerning computation of employer contribution rates, is amended to add an additional subdivision to read as follows:

(3)(A) Notwithstanding any other provision of this chapter, for any calendar year beginning on and after January 1, 2024, an employer that has been assigned a contribution rate of six percent (6%) under this chapter and that has had such a rate for the four (4) preceding calendar years will be assigned an additional contribution assessment of two percent (2%).

(B) After four (4) consecutive years of being assessed an additional contribution of two percent (2%) under subdivision (b)(3)(A) of this section, this additional contribution assessment shall increase to four percent (4%).

SECTION 6. Arkansas Code § 11-10-705(b)(2), concerning the computation of employer contribution rates, is repealed.

~~(2)(A) Notwithstanding any other provision of this chapter, for any calendar year beginning on and after January 1, 2008, an employer that has been assigned a contribution rate of six percent (6%) under this chapter and that has had such a rate for the two (2) preceding calendar years will be assigned an additional contribution assessment of two percent (2%).~~

~~(B) After two (2) consecutive years of being assessed an additional contribution of two percent (2%) under subdivision (b)(2)(A) of this section, this additional contribution assessment shall increase to four percent (4%).~~

~~(C) For calendar years beginning January 1, 2014, and thereafter, after two (2) consecutive years of being assessed an additional contribution of four percent (4%) under subdivision (b)(2)(B) of this section, the additional contribution assessment shall increase to six percent (6%).~~

~~(D) For calendar years beginning January 1, 2014, and thereafter, after two (2) consecutive years of being assessed an additional contribution of six percent (6%) under subdivision (b)(2)(C) of this section, the additional contribution assessment shall increase to eight percent (8%).~~

SECTION 7. Arkansas Code § 11-10-706 is amended to read as follows:

11-10-706. Future rates - ~~Stabilization tax~~ Administrative assessment.

(a)(1) ~~Each~~ Effective July 1, 2023, each employer shall be required to pay ~~a stabilization tax~~ an administrative assessment on wages paid by the employer with respect to employment.

(2) This ~~stabilization tax~~ administrative assessment shall not be credited to the separate account of each employer.

(b)(1) ~~The stabilization tax~~ For the period July 1, 2023, through June 30, 2024, the administrative assessment shall be determined as follows: ~~determined as follows:~~ twelve and one-half hundredths of one percent (0.125%).

~~(1)(2) If the assets of the Unemployment Compensation Fund on the computation date are equal to or greater than two percent (2%) but less than two and one half percent (2.5%) of total payrolls for employment during the preceding calendar year, the stabilization tax For the period beginning on and after July 1, 2024, the administrative assessment shall be one-tenth of one percent (0.1%);~~

~~(2) If the assets of the Unemployment Compensation Fund on the computation date are greater than one and one half percent (1.5%) but less than two percent (2%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be two tenths of one percent (0.2%);~~

~~(3) If the assets of the Unemployment Compensation Fund on the computation date are greater than one percent (1%) but less than one and one half percent (1.5%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be three tenths of one percent (0.3%);~~

~~(4) If the assets of the Unemployment Compensation Fund on the computation date are greater than one half of one percent (0.5%) but less than one percent (1%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be four tenths of one percent (0.4%);~~

~~(5) If the assets of the Unemployment Compensation Fund on the computation date are less than one half of one percent (0.5%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be seven tenths of one percent (0.7%);~~

~~(6) If the assets of the Unemployment Compensation Fund on the computation date are less than four tenths of one percent (0.4%) of total payrolls for employment during the preceding calendar year, the stabilization tax shall be one and one tenth percent (1.1%) for the calendar year 1993, nine tenths of one percent (0.9%) for the calendar year 1994, and eight tenths of one percent (0.8%) for the calendar year 1995 and thereafter; and~~

~~(7) For the rate year beginning January 1, 2022, and ending December 31, 2022, the stabilization tax shall be the lesser of:~~

~~(A) The amount determined according to subdivisions (b)(1) (6) of this section; or~~

~~(B) Two tenths of one percent (0.2%);~~

~~(c) Each employer eligible for an experience rating under § 11-10-705 shall have the employer's contribution rate reduced by one tenth of one percent (0.1%) for any rate year when the assets of the Unemployment Compensation Fund on the computation date are greater than five percent (5%) of total payrolls for employment during the preceding calendar year.~~

~~(d) Employers who have elected to reimburse the Unemployment Compensation Fund in lieu of contributions under § 11-10-404 or § 11-10-713 shall be excluded from the provisions of §§ 11-10-703—11-10-708 or any experience rate computation.~~

~~(e)(1) The provisions of this section shall not be effective for any rate year when the assets of the Unemployment Compensation Fund, excluding contributions not yet paid, on the computation date equal or exceed two and one-half percent (2.5%) but are less than five percent (5%) of total payrolls for employment during the preceding calendar year.~~

~~(2) For the purposes of §§ 11-10-703—11-10-708, total payrolls shall exclude payrolls of employers who have elected to reimburse the Unemployment Compensation Fund in lieu of contributions under § 11-10-404 or § 11-10-713.~~

~~(3)(A) For the purposes of §§ 11-10-703—11-10-708, the assets of the Unemployment Compensation Fund as of the computation date shall include only contributions which were paid on or before June 30, the computation date.~~

~~(B) Provided, however, for the purposes of this section, the computation date is defined as September 30 of the calendar year preceding the tax year.~~

~~(C) It shall include any accounts receivable from the United States for its share of extended benefit payments which have been paid from the Unemployment Compensation Fund and any accounts receivable from employers who have elected to reimburse the Unemployment Compensation Fund for benefits paid under § 11-10-404 or § 11-10-713.~~

~~(D) However, it shall exclude the assets of the Unemployment Compensation Fund Extended Benefits Account and shall be reduced by any outstanding advances owed to the United States Government.~~

~~(f)(1)(A)(c)(1) However, Each fiscal year, sixty percent (60%) of the proceeds of the stabilization tax in the amount of two and one-half hundredths of one percent (0.025%) of taxable wages collected during the~~

~~period July 1, 2007, through June 30, 2023~~ administrative assessment, up to six million dollars (\$6,000,000), shall be deposited and credited to the Division of Workforce Services Training Trust Fund, there to be used for worker training Unemployment Insurance Administration Fund, there to be used for personal services and operating expenses of the unemployment insurance program necessary for the proper administration of the Division of Workforce Services Law, § 11-10-101 et seq., as determined by the Director of the Division of Workforce Services.

~~(B) The total amount deposited into the Division of Workforce Services Training Trust Fund in any one (1) fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000).~~

(2)(A) ~~However, the proceeds of the stabilization tax in the amount of two and one-half hundredths of one percent (0.025%) of taxable wages collected during the period July 1, 2007, through June 30, 2023, shall be deposited and credited to the Division of Workforce Services Unemployment Insurance Administration Fund, there to be used for personal services and operating expenses of the unemployment insurance program necessary for the proper administration of the Division of Workforce Services Law, § 11-10-101 et seq., as determined by the Director of the Division of Workforce Services~~ After collection of the proceeds of the administrative assessment specified in subdivision (c)(1) of this section, only for the period from July 1, 2023, through June 30, 2024, the remaining proceeds, if any, of the administrative assessment shall be deposited and credited to the Division of Workforce Services Unemployment Insurance Administration Fund, there to be used solely for the purpose of modernizing information technology systems and hardware utilized in the administration of the unemployment insurance program.

~~(B)(i) The total amount deposited into the Division of Workforce Services Unemployment Insurance Administration Fund in any one (1) fiscal year shall not exceed two million five hundred thousand dollars (\$2,500,000)~~ The maximum amount to be deposited and credited under this subdivision (c)(2)(A) shall not exceed the difference between thirty-five million dollars (\$35,000,000) and the amounts deposited and credited in previous state fiscal years to the Division of Workforce Services Unemployment Insurance Administration Fund for the purpose of modernizing information technology systems and hardware utilized in the administration of the unemployment insurance program.

~~(ii) If the amount deposited into the Division of Workforce Services Unemployment Insurance Administration Fund under subdivision (f)(2)(B)(i) of this section is not sufficient to meet the administrative needs under the Division of Workforce Services Law, § 11-10-101 et seq., the Division of Workforce Services may deposit up to an additional three million five hundred thousand dollars (\$3,500,000) in any one (1) fiscal year to the Division of Workforce Services Unemployment Insurance Administration Fund upon approval by the Chief Fiscal Officer of the State.~~

~~(C)(i)(3) However, Each fiscal year, after collection of the proceeds of the stabilization tax administrative assessment specified in subdivisions ~~(f)(2)(A) and (B)~~ (c)(1) and (2) of this section, the remaining proceeds, if any, of the stabilization tax administrative assessment in an additional amount of fifteen hundredths of one percent (0.15%) of taxable wages collected during the period April 1, 2021, through December 31, 2023, up to two million five hundred thousand dollars (\$2,500,000) shall be deposited and credited to the Division of Workforce Services Unemployment Insurance Administration Fund, there to be used solely for the purpose of modernizing information technology systems and hardware utilized in the administration of the unemployment insurance program Training Trust Fund, there to be used for worker training.~~

~~(ii) The aggregate amount to be transferred into the Division of Workforce Services Unemployment Insurance Administration Fund under this subdivision (f)(2)(C) shall not exceed thirty five million dollars (\$35,000,000) and shall be reduced by the amount, if any, received from the United States Government for the purpose of modernizing information technology systems and hardware utilized in the administration of the unemployment insurance program.~~

(4) Each fiscal year, after collection of the proceeds of the administrative assessment specified under subdivisions (c)(1)-(c)(3) of this section, the remaining proceeds, if any, of the administrative assessment shall be deposited and credited to the Unemployment Compensation Fund.

~~(3)(5) The director shall report to the Legislative Council on a quarterly basis as to any and all uses of the Division of Workforce Services Training Trust Fund and the Division of Workforce Services Unemployment Insurance Administration Fund.~~

SECTION 8. Arkansas Code § 11-10-801(b)(10), concerning the Unemployment Compensation Fund, is amended to read as follows:

(10) All moneys received from the ~~stabilization tax~~ administrative assessment under § 11-10-706(c)(4), ~~except the proceeds of § 11-10-706(f);~~ and

SECTION 9. Arkansas Code § 19-5-1131(b)(1), concerning the Division of Workforce Services Training Trust Fund, is amended to read as follows:

(b)(1) The fund shall consist of the proceeds of the ~~stabilization tax~~ administrative assessment specified in ~~§ 11-10-706(f)~~ § 11-10-706(c)(3), any interest accruing on these revenues, and any other funds made available by the General Assembly.

SECTION 10. Arkansas Code § 19-5-1232(b)(1), concerning the Division of Workforce Services Unemployment Insurance Administration Fund, is amended to read as follows:

(b)(1) The fund shall consist of the proceeds of the ~~stabilization tax~~ administrative assessment as specified in ~~§ 11-10-706(f)~~ § 11-10-706(c)(3), any interest accruing on these revenues, and any other funds made available by the General Assembly.

SECTION 11. EMERGENCY CLAUSE. It is found and determined by the General Assembly that the Arkansas Unemployment Trust Fund is adequately funded to satisfy the state's obligation to pay benefits to unemployed Arkansans; that the current unemployment stabilization tax contributions paid by Arkansas employers are in excess of the amounts needed to fund the state's unemployment insurance program and create an unnecessary expense for employers that hinders the employment of Arkansans; and that this act is immediately necessary to remove obstacles to the employment of Arkansans and promote economic opportunity within the state. Therefore, an emergency is declared to exist, and this act being immediately necessary for the preservation of the public peace, health, and safety shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor,

the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

/s/Lundstrum