

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

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8 SYNOPSIS: Under existing law, the Department of Labor
9 and the Department of Industrial Relations were
10 merged into the Department of Labor.

11 This bill would delete the termination date
12 of the six one-hundredths of one percent special
13 assessment placed on wages paid to certain
14 employees by employers for deposit into the
15 Unemployment Compensation Fund and transferred to
16 the Employment Security Enhancement Fund.

17 This bill would change references to the
18 Director of Industrial Relations to the
19 Commissioner of Labor to reflect the merging of the
20 departments.

21 This bill would also make technical
22 nonsubstantive language changes.

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

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

9 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

12 "§25-4-40.1.

13 "(a) Retroactive to April 1, 1992, ~~and ending~~
14 ~~September 30, 2013,~~ there is hereby placed upon all wages so
15 defined in Section 25-4-16, paid to employees by employers
16 subject to pay contributions as provided in Sections 25-4-51
17 and 25-4-54, except as is hereinafter provided in this
18 section, a special assessment of 0.06% percent (six
19 one-hundredths of one percent) of such wages. This assessment
20 shall not apply to wages paid during any calendar quarter of
21 any calendar year by any employer whose rate of contribution
22 has been computed under the provisions of Section 25-4-54 to
23 be at least 5.40% percent but not more than 5.45% percent for
24 such calendar year, to any employer who for such calendar year
25 has elected to make payments in lieu of contributions pursuant
26 to ~~the provisions contained in~~ Section 25-4-51, nor to any
27 employer who has not had sufficient unemployment experience to

1 qualify for a rate determination under Section 25-4-54 for
2 such calendar year.

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

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

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

25 "(b) There is hereby created in the State Treasury a
26 special fund, to be known as "the Employment Security
27 Enhancement Fund," into which shall be deposited or

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

15 "(c) The moneys in the Employment Security
16 Enhancement Fund are authorized and~~7~~ are hereby appropriated~~7~~
17 for use by the ~~director~~ commissioner as follows:

18 "(1) Special claimant assistance program.

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

23 "b. The ~~director~~ commissioner shall appoint an
24 overview committee consisting of five ~~(5)~~ members and composed
25 of the Director of Employment Service, the Director of
26 Unemployment Compensation, and the Director of the Labor
27 Market Information Division of the department, one member

1 representing employers and selected by the Business Council of
2 Alabama (or successor organization), and one member selected
3 to represent employees by the Alabama Labor Council (or
4 successor organization). The committee members shall be
5 selected as soon after approval of this amendment as is
6 practicable.

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

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

20 "(2) General administration and enhancement of
21 employment security. Necessary and appropriate costs of
22 employment security enhancements, not in conflict with the
23 foregoing or state or federal laws, rules, or regulations, may
24 be paid from this fund at the discretion of the ~~director~~
25 commissioner.

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

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

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

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

20 "§25-4-54.

21 "(a) Determination of contribution rates.

22 "(1) For the 12-month period beginning on January 1
23 of each year which begins after December 31, 1996, any
24 employer whose experience rating account has been subject to
25 benefit charges throughout at least the fiscal year, as
26 defined in Section 25-4-4, immediately preceding such January
27 1, shall have his or her rate determined by the Unemployment

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

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

16 "(b) Determination of individual benefit charges.

17 "(1) An individual's "benefit charges" shall be as
18 follows:

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

22 "b. For each week extended benefits pursuant to
23 Section 25-4-75 are paid to an individual, the "benefit
24 charges" shall be equal to the state's share of such benefits
25 paid to him or her for such weeks; provided, however, where an
26 individual's benefit charges for extended benefits are
27 attributable to service in the employ of any governmental

1 entity, as defined in paragraph (a)(2)b of Section 25-4-10,
2 the individual's "benefit charges" shall be an amount equal to
3 the benefits he or she was paid for such week.

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

17 "(3) If benefits paid to an individual are based on
18 wages paid by two or more employers, the amount of the
19 individual's benefit charges applicable to any one employer
20 shall be an amount which bears the same ratio to the total
21 benefit charges as the total base period wages paid by such
22 employer to the individual and used for the payment of
23 benefits bears to the total base period wages paid to the
24 individual by all his or her base period employers and used
25 for the payment of benefits.

26 "(4) When, in the determination of any individual's
27 benefits, wages have been properly included once for one

1 benefit year or for one base period, such wages shall not
2 thereafter be included again in the computation of his or her
3 benefits for any other benefit year or in his or her wages for
4 any other base period respectively.

5 "(c) Determination of employer benefit charges.

6 "(1) An employer's benefit charges for each and
7 every fiscal year shall be the total of the regular benefits
8 and the state's share of the extended benefits paid during
9 such fiscal year to all of his or her employees or former
10 employees which are attributable to wages paid by such
11 employer to his or her employees or former employees, ~~and~~ except
12 as is provided by paragraph a. of subdivision (a) (5) of
13 Section 25-4-51 for governmental entities.

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

17 "(3) The ~~director~~ commissioner shall, after the
18 close of each calendar quarter, furnish each employer with a
19 statement of the benefits paid to his or her workers, or
20 former workers, which became his or her benefit charges in
21 that calendar quarter, together with the names of such
22 workers, or former workers, and such statement, in the absence
23 of an application for a revision thereof within 30 days of the
24 mailing of such statement to the employer's last known
25 address, shall be conclusive and final upon the employer for
26 all purposes and in all proceedings whatsoever. Such
27 application for revision shall be in the form and manner

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

1 shall affect the right of any employer at such hearing to
2 object to such statement of benefit charges on the ground that
3 it is incorrect by reason of a clerical error made by the
4 ~~director~~ commissioner or any of his or her employees. The
5 employer shall be promptly notified by mail of the ~~director's~~
6 decision of the commissioner. Such decision shall be final and
7 conclusive unless an appeal is taken therefrom in the manner
8 and within the time prescribed in subsection (h) ~~of this~~
9 ~~section~~.

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

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

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

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

4 "c. The benefits are paid from the Alabama U.I.
5 Trust Fund to claimants who would have been eligible for
6 disaster unemployment assistance under this act, if they have
7 not first received Alabama unemployment insurance benefits
8 with respect to their unemployment.

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

1 year by that part of his or her total taxable payroll for the
2 same period with respect to which contributions have been paid
3 on or before July 31 next following such period. The employers
4 benefit ratio shall be computed to the fourth decimal and be
5 used in determining each employer's contribution rate as
6 prescribed in subsection (a) ~~of this section~~ for the next
7 calendar year; except that:

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

17 "(e) Shared costs.

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

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

26 "b. The total amount of the difference between the
27 benefit charges to all employers during the fiscal year who

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

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

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

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

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

23 "(2) The total of the amounts determined under ~~the~~
24 ~~provisions of~~ subdivision (1) ~~above~~ shall be the statewide
25 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.

26 "(5)a. Except as is hereinafter provided, the shared
27 cost ratio as computed under the above provision for each

1 fiscal year shall, for the next calendar year, be assessed
2 each employer eligible for a rate determination under ~~the~~
3 ~~provision of~~ subdivision (a)(1) ~~of this section~~, in addition
4 to the rate of contributions determined by the tables
5 contained in subsection (f) ~~of this section~~.

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

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

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

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

22 "c. The authority of the ~~director~~ commissioner to
23 enforce collection of any shared cost assessment shall be the
24 same as is provided in this chapter for the enforcement of the
25 collections of contributions.

26 "(f) Notice of contribution rate, etc.; maximum
27 rate. The contribution rates (expressed as a percentage of

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

12 TAX RATE TABLE

13 EMPLOYER TAX RATE SCHEDULE:

14

15	LINE	IF THE EM-				
16	NO.	PLYER'S BEN-				
		EFIT RATIO	A	B	C	D
17	1	0.00-0.39	0.20	0.35	0.50	0.65
18	2	0.40-0.59	0.35	0.50	0.65	0.80
19	3	0.60-0.79	0.50	0.70	0.90	1.00

1	4	0.80-0.99	0.70	0.90	1.10	1.20
2	5	1.00-1.19	0.85	1.10	1.30	1.40
3	6	1.20-1.39	1.00	1.30	1.55	1.65
4	7	1.40-1.59	1.15	1.50	1.75	1.90
5	8	1.60-1.79	1.30	1.70	1.95	2.15
6	9	1.80-1.99	1.45	1.90	2.15	2.40
7	10	2.00-2.19	1.60	2.10	2.40	2.65
8	11	2.20-2.39	1.75	2.30	2.60	2.85
9	12	2.40-2.59	1.90	2.50	2.80	3.10
10	13	2.60-2.79	2.05	2.70	3.05	3.35
11	14	2.80-2.99	2.20	2.90	3.25	3.60
12	15	3.00-3.19	2.35	3.10	3.50	3.85
13	16	3.20-3.59	2.50	3.40	3.80	4.20
14	17	3.60-3.99	2.80	3.80	4.25	4.70
15	18	4.00-4.39	3.10	4.20	4.70	5.20
16	19	4.40-4.79	3.40	4.60	5.10	5.70
17	20	4.80-5.19	3.70	5.00	5.50	6.20
18	21	5.20-5.59	4.00	5.40	6.00	6.70
19	22	5.60-5.99	4.30	5.40	6.00	6.70
20	23	6.00-6.39	4.60	5.40	6.10	6.80
21	24	6.40-6.79	4.90	5.40	6.10	6.80
22	25	6.80-7.19	5.20	5.40	6.10	6.80

1 26 7.20 or over 5.40 5.40 6.10 6.80

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

7 If the rate of contribu-
8 tion specified by the Tax

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

11	0.20	0.14
12	0.35	0.29
13	0.50	0.44
14	0.65	0.59
15	0.70	0.64
16	0.80	0.74
17	0.85	0.79
18	0.90	0.84
19	1.00	0.94
20	1.10	1.04
21	1.15	1.09
22	1.20	1.14

1	1.30	1.24
2	1.40	1.34
3	1.45	1.39
4	1.50	1.44
5	1.55	1.49
6	1.60	1.54
7	1.65	1.59
8	1.70	1.64
9	1.75	1.69
10	1.90	1.84
11	1.95	1.89
12	2.05	1.99
13	2.10	2.04
14	2.15	2.09
15	2.20	2.14
16	2.30	2.24
17	2.35	2.29
18	2.40	2.34
19	2.50	2.44
20	2.60	2.54
21	2.65	2.59
22	2.70	2.64

1	2.80	2.74
2	2.85	2.79
3	2.90	2.84
4	3.05	2.99
5	3.10	3.04
6	3.25	3.19
7	3.35	3.29
8	3.40	3.34
9	3.50	3.44
10	3.60	3.54
11	3.70	3.64
12	3.80	3.74
13	3.85	3.79
14	4.00	3.94
15	4.20	4.14
16	4.25	4.19
17	4.30	4.24
18	4.60	4.54
19	4.70	4.64
20	4.90	4.84
21	5.00	4.94
22	5.10	5.04

1	5.20	5.14
2	5.40	5.40
3	5.50	5.44
4	5.70	5.64
5	6.00	5.94
6	6.10	6.04
7	6.20	6.14
8	6.70	6.64
9	6.80	6.74

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

1 all employers who being eligible for such option have elected
2 the option to make payments in lieu of contributions.

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

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

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

26 "(3) The ~~director~~ commissioner shall, on or before
27 the December 1 next following the end of each fiscal year,

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

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
26 not such fund is greater or less than the desired level of the
27 fund for a fiscal year; except, that any amount appropriated

1 and withdrawn which will not be repaid to the fund shall not
2 be included in such balances.

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

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

1 costs as the court may upon application prescribe. Trial in
2 that court shall be de novo with respect to his or her benefit
3 ratio.

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

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

26 "(2) Furnishes to the ~~director~~ commissioner within
27 120 calendar days from the date of such acquisition a

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

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