

# SENATE . . . . . No. 2001

---

Senate, Monday, February 3, 2014 – Pursuant to the provisions of Senate Rule 19, the committee on Ways and Means (Brewer) reports the following committee bill (Senate, No. 2001).

---

## The Commonwealth of Massachusetts

—————  
In the Year Two Thousand Fourteen  
—————

An Act relative to unemployment insurance reforms.

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is to reform forthwith the commonwealth’s unemployment insurance system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 1 of chapter 151A of the General Laws, as appearing in the 2012  
2 Official Edition, is hereby amended by striking out, in lines 327 and 338, the word “sixteen”  
3 each time it appears and inserting in place thereof in each instance the following figure:- 20.

4           SECTION 2. Subsection (a) of section 14 of said chapter 151A, as so appearing, is  
5 hereby amended by striking out paragraph (4) and inserting in place thereof the following  
6 paragraph:-

7           (4) “Unemployment insurance taxable wage base”, with respect to calendar years  
8 beginning on or after January 1, 2015, the term “unemployment insurance taxable wage base”  
9 shall mean \$21,000.

10 SECTION 3. Paragraph (1) of subsection (i) of said section 14 of said chapter 151A, as  
 11 so appearing, is hereby amended by striking out, in line 187 and 188, the date “January 1, 2004”  
 12 and inserting in place thereof the following date:- January 1, 2015.

13 SECTION 4. Said paragraph (1) of said subsection (i) of said section 14 of said chapter  
 14 151A, as so appearing, is hereby further amended by striking out the table and inserting in place  
 15 thereof the following table:-

	A	B	C	D	E	F	G
<b>Employer Account Reserve Percentage</b>	<b>1.65% and over</b>	<b>1.5% or more but less than 1.65%</b>	<b>1.2% or more but less than 1.5%</b>	<b>0.9% or more but less than 1.2%</b>	<b>0.6% or more but less than 0.9%</b>	<b>0.3% or more but less than 0.6%</b>	<b>less than 0.3%</b>
POS % 17 or more	0.56	0.64	0.73	0.83	0.94	1.07	1.21
16.0	0.64	0.73	0.83	0.95	1.08	1.22	1.39
15.0	0.73	0.83	0.94	1.07	1.21	1.38	1.57
14.0	0.81	0.92	1.04	1.18	1.34	1.53	1.73
13.5	0.97	1.10	1.25	1.42	1.61	1.83	2.08
13.0	1.05	1.19	1.35	1.54	1.75	1.99	2.26
12.5	1.13	1.28	1.46	1.66	1.89	2.14	2.43
12.0	1.21	1.37	1.56	1.77	2.01	2.29	2.60
11.5	1.29	1.47	1.67	1.89	2.15	2.45	2.78
11.0	1.37	1.56	1.77	2.01	2.29	2.6	2.96
10.5	1.45	1.65	1.87	2.13	2.42	2.75	3.12
10.0	1.53	1.74	1.98	2.25	2.56	2.91	3.3
9.5	1.61	1.83	2.08	2.36	2.69	3.05	3.47
9.0	1.7	1.93	2.19	2.49	2.82	3.21	3.65
8.5	1.78	2.02	2.29	2.61	2.96	3.37	3.82
8.0	1.85	2.10	2.39	2.72	3.09	3.51	3.99
7.5	1.94	2.20	2.5	2.84	3.23	3.67	4.17
7.0	2.02	2.30	2.61	2.96	3.37	3.82	4.35
6.5	2.09	2.38	2.71	3.08	3.50	3.97	4.51
6.0	2.17	2.47	2.81	3.20	3.63	4.13	4.69
5.5	2.25	2.56	2.91	3.31	3.76	4.28	4.86
5.0	2.34	2.66	3.02	3.43	3.90	4.43	5.04
4.5	2.42	2.75	3.13	3.55	4.04	4.59	5.21
4.0	2.50	2.84	3.23	3.67	4.17	4.74	5.38
3.5	2.58	2.93	3.33	3.79	4.30	4.89	5.56
3.0	2.67	3.03	3.44	3.91	4.44	5.05	5.74
2.5	2.75	3.12	3.54	4.02	4.57	5.20	5.90
2.0	2.82	3.21	3.65	4.14	4.71	5.35	6.08
1.5	2.9	3.3	3.75	4.26	4.84	5.50	6.25
1.0	2.98	3.39	3.85	4.38	4.98	5.65	6.43
0.5	3.06	3.48	3.96	4.5	5.11	5.81	6.60
0.0	3.14	3.57	4.06	4.61	5.24	5.96	6.77
NEG % 0.0 or less	4.22	4.79	5.45	6.19	7.03	7.99	9.08
-1.0	4.58	5.21	5.92	6.72	7.64	8.68	9.86

-3.0	4.95	5.63	6.39	7.27	8.26	9.38	10.66
-5.0	5.32	6.04	6.86	7.8	8.86	10.07	11.44
-7.0	5.68	6.46	7.34	8.34	9.48	10.77	12.23
-9.0	6.05	6.87	7.81	8.88	10.09	11.46	13.02
-11.0	6.42	7.29	8.29	9.42	10.70	12.16	13.81
-13.0	6.78	7.71	8.76	9.95	11.31	12.85	14.6
-15.0	7.15	8.13	9.24	10.49	11.93	13.55	15.39
-17.0	7.52	8.54	9.71	11.03	12.53	14.24	16.18
-19.0	7.88	8.96	10.18	11.57	13.15	14.94	16.97
-21.0	8.25	9.37	10.65	12.11	13.76	15.63	17.76
-23.0 or less	8.62	9.79	11.13	12.65	14.37	16.33	18.55

16 SECTION 5. Said section 14 of said chapter 151A, as so appearing, is hereby further  
17 amended by inserting after the word “unit”, in line 282, the following words:- and the transferee  
18 continues such organization, trade or business.

19 SECTION 6. Subsection (b) of section 19A of said chapter 151A, as so appearing, is  
20 hereby amended by adding the following sentence:-

21 An agency or instrumentality of the commonwealth shall not enter into, renew or extend  
22 a contract or agreement with any employer to provide goods, services or physical space that has  
23 a maximum obligation or value greater than \$5,000 to such agency or instrumentality or  
24 authorize any tax credit under chapters 62 and 63 in excess of \$5,000 unless the employer has  
25 submitted a certificate of compliance issued by the department showing that it is current in all its  
26 obligations relating to contributions, payments in lieu of contributions and the employer medical  
27 assistance contribution established in section 189 of chapter 149.

28 SECTION 7. Section 24A of said chapter 151A, as so appearing, is hereby amended by  
29 striking out, in line 25, the word “sixteen” and inserting in place thereof the following figure:-  
30 20.

31 SECTION 8. Section 25 of said chapter 151A, as so appearing, is hereby amended by  
32 striking out, in lines 112 to 114, inclusive, the words “and in each of said weeks has earned an  
33 amount equivalent to or in excess of the individual’s weekly benefit amount after the individual

34 has left work” and inserting in place thereof the following words:- and has earned an amount  
35 equivalent to or in excess of 8 times the individual’s weekly benefit amount after the individual  
36 has left work.

37 SECTION 9. Said chapter 151A is hereby further amended by inserting after section 28A  
38 the following section:-

39 Section 28B. For the purposes of this section the term “person of influence” shall mean a  
40 corporate officer, partner or owner of an employing unit, a person who has more than a 5 per  
41 cent equitable or debt interest in an employing unit or a family member, as defined in paragraph  
42 (7) of subsection (k) of section 14N, of such individuals.

43 If an employee, who is a person of influence, receives an unemployment benefit under  
44 this chapter and during the same benefit year resumes or returns to work for the same employing  
45 unit, then there shall be a rebuttable presumption that the employee’s unemployment was due to  
46 circumstances within the employee’s control and all benefits paid to the employee during the  
47 benefit year shall be considered an overpayment, which the employee shall repay.

48 SECTION 10. Subsection (b) of section 29 of said chapter 151A, as appearing in the  
49 2012 Official Edition, is hereby amended by adding the following sentence:-

50 Nothing in this subsection shall cause a reduction of benefits solely because an individual  
51 quit a subsidiary part-time job during the individual’s base period prior to being deemed in  
52 partial unemployment.

53 SECTION 11. Said chapter 151A is hereby further amended by inserting after section  
54 47A the following section:-

55           Section 47B. (a) No employer shall discharge, discipline, penalize or in any manner  
56 discriminate against any employee because: (i) the employee has filed a claim or instituted or  
57 caused to be instituted any proceeding under this chapter; (ii) the employee has testified or is  
58 about to testify in any such proceeding instituted under this chapter; or (iii) the employee  
59 exercised a right afforded by this chapter, regardless of whether the right was exercised for the  
60 employee's benefit or the benefit of a third party.

61           (b) Any employee or former employee aggrieved by a violation of this section may,  
62 within 2 years, institute a civil action in the superior court. Each party to the action shall be  
63 entitled to a jury trial. In addition to any legal or equitable relief provided herein, all remedies  
64 available in common law tort actions shall be available to prevailing plaintiffs. The court may: (i)  
65 issue a temporary restraining order or preliminary or permanent injunction to restrain a continued  
66 violation of this section; (ii) reinstate the employee to the same position held before the  
67 retaliatory action or to an equivalent position; (iii) reinstate full fringe benefits and seniority  
68 rights to the employee; (iv) compensate the employee for 3 times the lost wages, benefits and  
69 other remuneration and interest thereon; and (v) order payment by the employer of reasonable  
70 costs and attorneys' fees.

71           (c)     (1) In an action brought by an employee under subsection (b), if the court finds  
72 the action was without basis in law or in fact, the court may award reasonable attorneys' fees and  
73 court costs to the employer.

74                     (2) An employee shall not be assessed attorneys' fees under paragraph (1) if, after  
75 exercising reasonable and diligent efforts after filing a suit, the employee moves to dismiss the

76 action against the employer, or files a notice agreeing to a voluntary dismissal, within a  
77 reasonable time after determining that the employer would not be found liable for damages.

78 (d) Nothing in this section shall be deemed to diminish the rights, privileges or remedies  
79 of any employee under any other federal or state law or regulation, or under any collective  
80 bargaining agreement or employment contract; except that the institution of a private action in  
81 accordance with subsection (b) shall be deemed a waiver by the plaintiff of the rights and  
82 remedies available to the employee, for the actions of the employer, under any other contract,  
83 collective bargaining agreement, state law, rule or regulation or under common law.

84 SECTION 12. Section 71 of said chapter 151A, as appearing in the 2012 Official Edition,  
85 is hereby amended by striking out the second paragraph and inserting in place thereof the  
86 following paragraph:-

87 Notice of any such redetermination shall be promptly given to the parties entitled to  
88 notice of the original determination, in the manner prescribed in this chapter with respect to  
89 notice of an original determination. If the amount of benefits would be increased upon such  
90 redetermination an appeal therefrom solely with respect to the matters involved in such increase  
91 may be filed in the manner and subject to the limitations provided in sections 39 to 40, inclusive.  
92 If the amount of benefits would be decreased upon such redetermination, the matters involved in  
93 such decrease shall be subject to review in connection with an appeal by the claimant thereon or  
94 from any determination upon a subsequent claim for benefits which may be affected in amount  
95 or duration by such redetermination. Any proposed decrease or increase of the amount of  
96 benefits based upon such a redetermination shall not take effect if any party seeks timely review  
97 under subsection (b) of section 39. Subject to the same limitations and for the same reasons, the

98 commissioner may reconsider the determination in any case in which a decision has been  
99 rendered by the board of review or a court, and may apply to said board or such court which  
100 rendered such decision to revoke or modify such decision and the board of review or court may  
101 affirm, modify or revoke such decision.

102 SECTION 13. Notwithstanding section 14 of chapter 151A of the General Laws, for  
103 calendar year 2014, the experience rate of an employer qualifying under subsection (b) of said  
104 section 14 of said chapter 151A shall be the rate in column "E" in paragraph (1) of subsection (i)  
105 of said section 14 of said chapter 151A.

106 SECTION 14. Notwithstanding section 14 of chapter 151A of the General Laws, for  
107 calendar year 2015, the experience rate of an employer qualifying under subsection (b) of said  
108 section 14 of said chapter 151A shall be the rate in column "C" in paragraph (1) of subsection (i)  
109 of said section 14 of said chapter 151A.

110 SECTION 15. Notwithstanding section 14 of chapter 151A of the General Laws, for  
111 calendar year 2016, the experience rate of an employer qualifying under subsection (b) of said  
112 section 14 of said chapter 151A shall be the rate in column "C" in paragraph (1) of subsection (i)  
113 of said section 14 of said chapter 151A.

114 SECTION 16. Notwithstanding section 14 of chapter 151A of the General Laws, for  
115 calendar year 2017, the experience rate of an employer qualifying under subsection (b) of said  
116 section 14 of said chapter 151A shall be the rate in column "C" in paragraph (1) of subsection (i)  
117 of said section 14 of said chapter 151A.

118 SECTION 17. Sections 2, 3, 4 and 14 shall take effect on January 1, 2015.

119 SECTION 18. Section 13 shall take effect as of January 1, 2014.

120 SECTION 19. Section 15 shall take effect on January 1, 2016.

121 SECTION 20. Section 16 shall take effect on January 1, 2017.