

1 ENGROSSED SENATE
2 BILL NO. 789

By: Leewright of the Senate

3 and

4 Wallace of the House

5
6 An Act relating to the Oklahoma Employment Security
7 Commission; amending 40 O.S. 2011, Section 3-113,
8 which relates to conditional factors; modifying
9 restriction for certain contribution rate increase;
10 amending 40 O.S. 2011, Section 3-114, which relates
11 to the financial condition of certain fund; modifying
12 language; providing procedures to supplement
13 financial condition of fund during certain state of
14 emergency; authorizing certain actions available to
15 Commission to supplement fund; providing an effective
16 date; and declaring an emergency.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 40 O.S. 2011, Section 3-113, is
19 amended to read as follows:

20 Section 3-113. CONDITIONAL FACTORS.

21 For each calendar year commencing after December 31, 2006,
22 except for those employers with a benefit wage ratio of zero (0) and
23 as otherwise provided in this section, the contribution rate for
24 each employer for the calendar year shall be increased, in the
25 circumstances and in the amounts as follows:

(1) - Condition "a" - If the balance of the unemployment
compensation fund is less than three and one-half (3 1/2) times, but

1 not less than three (3) times, the net benefits paid for the most
2 recent twenty (20) consecutive completed calendar quarters divided
3 by five (5), on July 1 of any given year, the contribution rate for
4 the next calendar year for each employer whose benefit wage ratio
5 with respect to that year is zero percent (0%) shall be increased by
6 one-tenth of one percent (1/10 of 1%) of wages paid by the employer
7 during the year; the contribution rate for each employer whose
8 benefit rate wage ratio with respect to that year is more than zero
9 percent (0%), but not more than one-tenth of one percent (1/10 of
10 1%), shall be increased by two-tenths of one percent (2/10 of 1%) of
11 wages paid by the employer during the year and the contribution rate
12 for each employer whose benefit wage ratio with respect to that
13 year is more than one-tenth of one percent (1/10 of 1%), shall be
14 increased by three-tenths of one percent (3/10 of 1%) of wages paid
15 by the employer during that year.

16 (2) - Condition "b" - If the balance of the unemployment
17 compensation fund is less than three (3) times, but not less than
18 two and one-half (2 1/2) times, the net benefits paid for the most
19 recent twenty (20) consecutive completed calendar quarters divided
20 by five (5), as of July 1 of any given year, the contribution rate
21 for the next calendar year for each employer shall be increased by
22 thirty-three and one-third percent (33 1/3%) of the rate; provided
23 that the total rate, if not a multiple of one-tenth of one percent
24 (1/10 of 1%), shall be computed to the next higher multiple of one-

1 tenth of one percent (1/10 of 1%) of wages paid by the employer
2 during that year; provided, further, that the contribution rate for
3 each employer whose benefit wage ratio with respect to that year is
4 zero percent (0%) shall be increased by two-tenths of one percent
5 (2/10 of 1%) of wages paid by the employer during that year; the
6 contribution rate for each employer whose benefit wage ratio with
7 respect to that year is more than zero percent (0%), but not more
8 than one-tenth of one percent (1/10 of 1%), shall be increased by
9 three-tenths of one percent (3/10 of 1%) of wages paid by the
10 employer during that year; and the contribution rate for each
11 employer whose benefit wage ratio with respect to that year is more
12 than one-tenth of one percent (1/10 of 1%), shall be increased by at
13 least four-tenths of one percent (4/10 of 1%) of wages paid by the
14 employer during that year.

15 (3) - Condition "c" - If the balance of the unemployment
16 compensation fund is less than two and one-half (2 1/2) times, but
17 not less than two (2) times, the net benefits paid for the most
18 recent twenty (20) consecutive completed calendar quarters divided
19 by five (5), as of July 1 of any given year, the contribution rate
20 for the next calendar year for each employer shall be increased by
21 one-half (1/2) of that rate; provided that the total rate, if not a
22 multiple of one-tenth of one percent (1/10 of 1%), shall be computed
23 to the next higher multiple of one-tenth of one percent (1/10 of 1%)
24 of wages paid by the employer during that year; provided, further,

1 that the contribution rate for each employer whose benefit wage
2 ratio with respect to that year is zero percent (0%) shall be
3 increased by three-tenths of one percent ($3/10$ of 1%) of wages paid
4 by the employer during that year; the contribution rate for each
5 employer whose benefit wage ratio with respect to that year is more
6 than zero percent (0%), but not more than one-tenth of one percent
7 ($1/10$ of 1%), shall be increased by four-tenths of one percent ($4/10$
8 of 1%) of wages paid by the employer during that year; and the
9 contribution rate for each employer whose benefit wage ratio with
10 respect to that year is more than one-tenth of one percent ($1/10$ of
11 1%), shall be increased by at least five-tenths of one percent ($5/10$
12 of 1%) of wages paid by the employer during that year.

13 (4) - Condition "d" - If the balance of the unemployment
14 compensation fund is less than two (2) times the net benefits paid
15 for the most recent twenty (20) consecutive completed calendar
16 quarters divided by five (5), as of July 1 of any given year, the
17 contribution rate for the next calendar year for each employer shall
18 be increased by sixty-six and two-thirds percent ($66 \frac{2}{3} \%$) of the
19 rate; provided that the total rate, if not a multiple of one-tenth
20 of one percent ($1/10$ of 1%) shall be computed to the next higher
21 multiple of one-tenth of one percent ($1/10$ of 1%) of wages paid by
22 the employer during that year; provided, further, that the
23 contribution rate for each employer whose benefit wage ratio with
24 respect to that year is zero percent (0%) shall be increased by

1 four-tenths of one percent (4/10 of 1%) of wages paid by the
2 employer during that year; the contribution rate for each employer
3 whose benefit wage ratio with respect to that year is more than zero
4 percent (0%), but not more than one-tenth of one percent (1/10 of
5 1%), shall be increased by five-tenths of one percent (5/10 of 1%)
6 of wages paid by the employer during that year; the contribution
7 rate for each employer whose benefit wage ratio with respect to that
8 year is more than one-tenth of one percent (1/10 of 1%), shall be
9 increased by at least six-tenths of one percent (6/10 of 1%) of
10 wages paid by the employer during that year.

11 (5) The contribution rate, excluding any surcharge, for an
12 employer whose contribution rate is three and four-tenths percent
13 (3.4%) or more shall not be increased by more than two (2)
14 percentage points in any ~~one (1) year~~ two (2) consecutive years.

15 The contribution rate, excluding any surcharge, for an employer
16 whose contribution rate is less than three and four-tenths percent
17 (3.4%) shall not be increased to more than five and four-tenths
18 percent (5.4%) in one (1) year.

19 For the purposes of this section "net benefits paid for the most
20 recent twenty (20) consecutive completed calendar quarters" means
21 the total amount of monies withdrawn from this state's account in
22 the unemployment trust fund in the United States Treasury for each
23 of the most recent twenty (20) consecutive completed calendar
24 quarters, plus the balance in the benefit account at the start of

1 the period, less the balance in the benefit account at the end of
2 the period. The contribution rate for those employers with a
3 benefit wage ratio of zero (0) shall be two-tenths of one percent
4 (2/10 of 1%) during those years when the fund is in conditions "a",
5 "b", and "c", and shall be three-tenths of one percent (3/10 of 1%)
6 during those years when the fund is in condition "d".

7 (6) Beginning January 1, 1996, except for this paragraph and
8 paragraph (7) of this section, the provisions of this section shall
9 be suspended until the Unemployment Trust Fund reaches a High Cost
10 Multiple of one and one-fourth (1 1/4). The Oklahoma Employment
11 Security Commission shall determine the High Cost Multiple at the
12 end of each calendar year and shall include the result of its
13 computation in a regularly published periodical together with other
14 employment-related data. As used in this section, "High Cost
15 Multiple" shall be a figure computed as follows:

16 (a) first, net fund reserves in the Unemployment
17 Compensation Fund as of the date of each computation
18 required by this section shall be divided by total
19 wages earned in insured employment for the twelve (12)
20 months preceding the date of the quarterly High Cost
21 Multiple computation,

22 (b) second, the result of the computation from
23 subparagraph (a) of this paragraph shall be divided by
24 a figure which is a quotient derived from the

1 computation of the High-Cost Rate contained in
2 subparagraph (c) of this paragraph, and

3 (c) third, the highest ratio of total state benefit
4 payments experienced previously in any twelve (12)
5 consecutive months to total wages earned in insured
6 employment for the same period shall be the High-Cost
7 Rate.

8 The result of all computations contained in subparagraphs (a)
9 through (c) of this paragraph, performed in the sequence as
10 specified in this section, shall be known as the High Cost Multiple;

11 (7) Prior to the beginning of each calendar year, the
12 Commission shall prepare an estimate of the financial condition of
13 the trust fund. If the estimate for the year shows the balance, at
14 any time during the year, will fall below the High Cost Multiple as
15 defined in paragraph (6) of this section, then the Commission shall
16 reinstate the suspended provisions of this section.

17 SECTION 2. AMENDATORY 40 O.S. 2011, Section 3-114, is
18 amended to read as follows:

19 Section 3-114. ESTIMATE OF FINANCIAL CONDITION OF FUND -
20 SURCHARGE. Prior to the beginning of each calendar quarter, the
21 Oklahoma Employment Security Commission shall prepare an estimate of
22 the financial condition of the fund for the quarter. ~~Effective July~~
23 ~~1, 1992, if~~ If the estimate for any quarter shows a balance at any
24 time during the quarter of less than Twenty-five Million Dollars

1 (\$25,000,000.00), the Commission shall assess and collect a
2 surcharge for that calendar quarter in an amount sufficient to keep
3 the balance at Twenty-five Million Dollars (\$25,000,000.00), except
4 as otherwise provided in this section.

5 The surcharge shall be charged to each employer in proportion to
6 the employer's total tax liability as of the last completed quarter
7 for the current calendar year and shall not exceed thirty-three and
8 one-third percent (33 1/3%) per taxable year.

9 In a state of emergency declared by the Governor, the Oklahoma
10 Legislature, the United States President or the U.S. Congress, the
11 Commission shall have the following authority:

12 1. If a state of emergency directly and adversely impacts the
13 fund and if the estimate for any quarter in a declared state of
14 emergency shows a balance at any time during the quarter of less
15 than Twenty-five Million Dollars (\$25,000,000.00), the Commission
16 shall have authority to:

- 17 a. claim up to twenty-five percent (25%) of the federal
18 emergency relief funds made available to the state, if
19 any,
- 20 b. decrease the surcharge to be charged to each employer
21 to a percentage rate that is sufficient to bring the
22 balance of the fund to Twenty-five Million Dollars
23 (\$25,000,000.00),

24

1 c. borrow federal funds in amounts determined necessary
2 by the Commission,

3 d. allow the balance of the fund to remain less than
4 Twenty-five Million Dollars (\$25,000,000.00) but not
5 less than Ten Million Dollars (\$10,000,000.00), or

6 e. use any combination of the provisions of subparagraph
7 a, b, c or d of this subsection to supplement the
8 fund; and

9 2. When a state of emergency does not directly impact the fund,
10 the Commission shall adhere to the required duty to assess and
11 collect a surcharge for that calendar quarter in an amount
12 sufficient to keep the fund balance at Twenty-five Million Dollars
13 (\$25,000,000.00).

14 SECTION 3. This act shall become effective July 1, 2021.

15 SECTION 4. It being immediately necessary for the preservation
16 of the public peace, health or safety, an emergency is hereby
17 declared to exist, by reason whereof this act shall take effect and
18 be in full force from and after its passage and approval.

1 Passed the Senate the 9th day of March, 2021.

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3 _____
4 Presiding Officer of the Senate

5 Passed the House of Representatives the ____ day of _____,
6 2021.

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8 _____
9 Presiding Officer of the House
10 of Representatives