

An Act

ENROLLED SENATE
BILL NO. 789

By: Leewright of the Senate

and

Wallace of the House

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

SUBJECT: Oklahoma Employment Security Commission

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

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

Section 3-113. CONDITIONAL FACTORS.

For each calendar year commencing after December 31, 2006, except for those employers with a benefit wage ratio of zero (0) and as otherwise provided in this section, the contribution rate for each employer for the calendar year shall be increased, in the 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 not less than three (3) times, the net benefits paid for the most

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

(2) - Condition "b" - If the balance of the unemployment compensation fund is less than three (3) times, but not less than two and one-half (2 1/2) times, the net benefits paid for the most recent twenty (20) consecutive completed calendar quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by thirty-three and one-third percent (33 1/3%) of the rate; provided that the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%), shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during that year; provided, further, that the contribution rate for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by two-tenths of one percent (2/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during that year; and the contribution rate for each employer whose benefit wage ratio with respect to that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least four-tenths of one percent (4/10 of 1%) of wages paid by the employer during that year.

(3) - Condition "c" - If the balance of the unemployment compensation fund is less than two and one-half (2 1/2) times, but not less than two (2) times, the net benefits paid for the most

recent twenty (20) consecutive completed calendar quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by one-half (1/2) of that rate; provided that the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%), shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during that year; provided, further, that the contribution rate for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by three-tenths of one percent (3/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by four-tenths of one percent (4/10 of 1%) of wages paid by the employer during that year; and the contribution rate for each employer whose benefit wage ratio with respect to that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least five-tenths of one percent (5/10 of 1%) of wages paid by the employer during that year.

(4) - Condition "d" - If the balance of the unemployment compensation fund is less than two (2) times the net benefits paid for the most recent twenty (20) consecutive completed calendar quarters divided by five (5), as of July 1 of any given year, the contribution rate for the next calendar year for each employer shall be increased by sixty-six and two-thirds percent (66 2/3 %) of the rate; provided that the total rate, if not a multiple of one-tenth of one percent (1/10 of 1%) shall be computed to the next higher multiple of one-tenth of one percent (1/10 of 1%) of wages paid by the employer during that year; provided, further, that the contribution rate for each employer whose benefit wage ratio with respect to that year is zero percent (0%) shall be increased by four-tenths of one percent (4/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than zero percent (0%), but not more than one-tenth of one percent (1/10 of 1%), shall be increased by five-tenths of one percent (5/10 of 1%) of wages paid by the employer during that year; the contribution rate for each employer whose benefit wage ratio with respect to that year is more than one-tenth of one percent (1/10 of 1%), shall be increased by at least six-tenths of one percent (6/10 of 1%) of wages paid by the employer during that year.

(5) The contribution rate, excluding any surcharge, for an employer whose contribution rate is three and four-tenths percent (3.4%) or more shall not be increased by more than two (2) percentage points in any ~~one (1) year~~ two (2) consecutive years. The contribution rate, excluding any surcharge, for an employer whose contribution rate is less than three and four-tenths percent (3.4%) shall not be increased to more than five and four-tenths percent (5.4%) in one (1) year.

For the purposes of this section "net benefits paid for the most recent twenty (20) consecutive completed calendar quarters" means the total amount of monies withdrawn from this state's account in the unemployment trust fund in the United States Treasury for each of the most recent twenty (20) consecutive completed calendar quarters, plus the balance in the benefit account at the start of the period, less the balance in the benefit account at the end of the period. The contribution rate for those employers with a benefit wage ratio of zero (0) shall be two-tenths of one percent (2/10 of 1%) during those years when the fund is in conditions "a", "b", and "c", and shall be three-tenths of one percent (3/10 of 1%) during those years when the fund is in condition "d".

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

- (a) first, net fund reserves in the Unemployment Compensation Fund as of the date of each computation required by this section shall be divided by total wages earned in insured employment for the twelve (12) months preceding the date of the quarterly High Cost Multiple computation,
- (b) second, the result of the computation from subparagraph (a) of this paragraph shall be divided by

a figure which is a quotient derived from the computation of the High-Cost Rate contained in subparagraph (c) of this paragraph, and

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

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

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

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

Section 3-114. ESTIMATE OF FINANCIAL CONDITION OF FUND - SURCHARGE. Prior to the beginning of each calendar quarter, the Oklahoma Employment Security Commission shall prepare an estimate of the financial condition of the fund for the quarter. ~~Effective July 1, 1992, if~~ If the estimate for any quarter shows a balance at any time during the quarter of less than Twenty-five Million Dollars (\$25,000,000.00), the Commission shall assess and collect a surcharge for that calendar quarter in an amount sufficient to keep the balance at Twenty-five Million Dollars (\$25,000,000.00), except as otherwise provided in this section.

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

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

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

- a. claim up to twenty-five percent (25%) of the federal emergency relief funds made available to the state, if any,
- b. decrease the surcharge to be charged to each employer to a percentage rate that is sufficient to bring the balance of the fund to Twenty-five Million Dollars (\$25,000,000.00),
- c. borrow federal funds in amounts determined necessary by the Commission,
- d. allow the balance of the fund to remain less than Twenty-five Million Dollars (\$25,000,000.00) but not less than Ten Million Dollars (\$10,000,000.00), or
- e. use any combination of the provisions of subparagraph a, b, c or d of this subsection to supplement the fund; and

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

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

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

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

Presiding Officer of the Senate

Passed the House of Representatives the 12th day of April, 2021.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____