

1 HB305
2 127449-2
3 By Representative Canfield
4 RFD: Commerce and Small Business
5 First Read: 22-MAR-11

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8 SYNOPSIS: Under current law, the expiration date of
9 the special assessment used to fund the Employment
10 Security Enhancement Fund is September 30, 2011.

11 This bill would extend the expiration date
12 of the special assessment until September 30, 2013.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 To amend Sections 25-4-40.1 and 25-4-54, Code of
19 Alabama 1975, as amended by Act 2010-505 of the 2010 Regular
20 Session (Acts 2010, p. 811), relating to the Employment
21 Security Enhancement Fund; to extend the expiration date of
22 the special assessment.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 25-4-40.1 and 25-4-54, Code of
25 Alabama 1975, as amended by Act 2010-505, 2010 Regular Session
26 (Acts 2010, p. 811), are amended to read as follows:

27 "§25-4-40.1.

1 "(a) Retroactive to April 1, 1992, and ending
2 September 30, ~~2011~~ 2013, there is hereby placed upon all wages
3 so defined in Section 25-4-16, paid to employees by employers
4 subject to pay contributions as provided in Sections 25-4-51
5 and 25-4-54, except as is hereinafter provided in this
6 section, a special assessment of 0.06% (six one-hundredths of
7 one percent) of such wages. This assessment shall not apply to
8 wages paid during any calendar quarter of any calendar year by
9 any employer whose rate of contribution has been computed
10 under the provisions of Section 25-4-54 to be at least 5.40%
11 but not more than 5.45% for such calendar year, to any
12 employer who for such calendar year has elected to make
13 payments in lieu of contributions pursuant to the provisions
14 contained in Section 25-4-51, nor to any employer who has not
15 had sufficient unemployment experience to qualify for a rate
16 determination under Section 25-4-54 for such calendar year.

17 "(1) Assessments under this section shall become due
18 and payable at the end of each calendar quarter which begins
19 after March 31, 1992, and shall be paid in accordance with
20 regulations as may be prescribed by the director at the same
21 time and in the same manner as employers are required by this
22 chapter to file reports and pay contributions and shall not be
23 deducted, in whole or in part, from any remuneration of
24 individuals in the employ of the employer.

25 "(2) The provisions of Sections 25-4-132 and
26 25-4-133, relating to the assessment of interest and penalties
27 for delinquent reporting or payments and the procedures for

1 the collection of delinquent reports and payments shall apply
2 to the assessment prescribed by this section. Any interest or
3 penalty so assessed and collected shall be deposited or
4 transferred to the Special Employment Security Administration
5 Fund provided for in subsection (b) of Section 25-4-142.

6 "(3) All moneys collected as assessments pursuant to
7 the provisions of this section shall be promptly deposited in
8 the clearing account of the Unemployment Compensation Fund
9 only for the purpose of transfer and, as soon as practicable
10 to do so, shall be transferred into the "Employment Security
11 Enhancement Fund" in the State Treasury.

12 "(b) There is hereby created in the State Treasury a
13 special fund, to be known as "the Employment Security
14 Enhancement Fund," into which shall be deposited or
15 transferred all funds collected retroactive to April 1, 1992,
16 pursuant to the assessment made by the provisions of Section
17 25-4-32. All moneys in this fund shall be deposited,
18 administered, and disbursed in the same manner and under the
19 same conditions and requirements as is provided by law for
20 other special funds in the State Treasury. All moneys in this
21 fund shall be continuously available to the director for
22 expenditure in accordance with the provisions of this chapter,
23 and shall not lapse at any time. These funds shall not be
24 expended or made available for expenditure in any manner which
25 would permit their substitution for federal funds, which
26 would, in the absence of the moneys, be available to finance

1 expenditures for the administration of the state unemployment
2 compensation and employment service laws.

3 "(c) The moneys in the Employment Security
4 Enhancement Fund are authorized and, are hereby appropriated,
5 for use by the director as follows:

6 "(1) Special claimant assistance program.

7 "a. Moneys in this fund may be expended to
8 supplement basic employment security services with special job
9 search and job placement assistance designed to assist
10 unemployment compensation claimants obtain employment.

11 "b. The director shall appoint an overview committee
12 consisting of five (5) members and composed of the Director of
13 Employment Service, the Director of Unemployment Compensation,
14 and the Director of the Labor Market Information Division of
15 the department, one member representing employers and selected
16 by the Business Council of Alabama (or successor organization)
17 and one member selected to represent employees by the Alabama
18 Labor Council (or successor organization). The committee
19 members shall be selected as soon after approval of this
20 amendment as is practicable.

21 "c. The duties of the overview committee shall
22 include the initial planning of the claimant assistance
23 program as to content and procedures, the determination of
24 standards, criteria, statistical requirements, and reporting
25 needs, monitoring the progress of the program, and measuring
26 the results and making recommendations to the director.

1 "d. All members of this committee shall serve
2 without remuneration, however, shall be reimbursed for any and
3 all necessary expenses incurred during the performance of
4 their duties in the same manner and under the same regulations
5 as apply to state employees. Such expenses are to be paid from
6 the Employment Security Enhancement Fund.

7 "(2) General administration and enhancement of
8 employment security. Necessary and appropriate costs of
9 employment security enhancements, not in conflict with the
10 foregoing or state or federal laws, rules or regulations, may
11 be paid from this fund at the discretion of the director.

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

15 "(4) The director shall submit a special report at
16 the end of each calendar year to the Governor, Lieutenant
17 Governor, and the Speaker of the House of Representatives
18 giving an accounting of collections and expenditures, and an
19 assessment of the success of programs funded from this source.

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

22 "(e) In the event there is a cessation of the
23 activities and purposes of the programs to be funded by moneys
24 from this fund, all remaining moneys in the Employment
25 Security Enhancement Fund, within 90 calendar days after all
26 outstanding obligations of the director related to this fund
27 have been fulfilled, shall be transferred into the state's

1 Unemployment Compensation Trust Fund on deposit with the U.S.
2 Treasury.

3 "\$25-4-54.

4 "(a) Determination of contribution rates.

5 "(1) For the 12-month period beginning on January 1
6 of each year which begins after December 31, 1996, any
7 employer whose experience rating account has been subject to
8 benefit charges throughout at least the fiscal year, as
9 defined in Section 25-4-4, immediately preceding such January
10 1, shall have his rate determined by the Unemployment
11 Compensation Fund's liability for benefits paid to his
12 employees, modified by the fund's balance as of the most
13 recent June 30. The employment record of an organization which
14 has been making payments in lieu of contributions but which
15 elects to change to payment of contributions shall be deemed
16 to have been chargeable with benefits throughout the period
17 (not to exceed three fiscal years) with respect to which it
18 was making payments in lieu of contributions and its benefit
19 charges and payrolls for such period shall be used in
20 computing its benefit ratio pursuant to subsection (d) of this
21 section.

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

26 "(b) Determination of individual benefit charges.

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

3 "a. For each week benefits are paid, an individual's
4 "benefit charges" shall be equal to the amount of benefits he
5 was paid for such week.

6 "b. For each week extended benefits pursuant to
7 Section 25-4-75 are paid to an individual, the "benefit
8 charges" shall be equal to the state's share of such benefits
9 paid to him for such weeks; provided, however, where an
10 individual's benefit charges for extended benefits are
11 attributable to service in the employ of any governmental
12 entity, as defined in paragraph (a)(2)b of Section 25-4-10,
13 the individual's "benefit charges" shall be an amount equal to
14 the benefits he was paid for such week.

15 "(2) Any benefits paid to an individual based on
16 wages paid to an employee during his base period for part-time
17 employment by an employer who continues to give the employee
18 employment to the same extent while he is receiving benefits
19 as he did during his base period shall not be determined to be
20 the individual's benefit charges. The employer shall establish
21 the continuation of work to the satisfaction of the director
22 by submitting such information as the director may require
23 within the time required by other provisions of this chapter
24 after the date of notification or mailing of notice by the
25 director that the employee has first filed a claim for
26 benefits.

1 "(3) If benefits paid to an individual are based on
2 wages paid by two or more employers, the amount of the
3 individual's benefit charges applicable to any one employer
4 shall be an amount which bears the same ratio to the total
5 benefit charges as the total base period wages paid by such
6 employer to the individual and used for the payment of
7 benefits bears to the total base period wages paid to the
8 individual by all his base period employers and used for the
9 payment of benefits.

10 "(4) When, in the determination of any individual's
11 benefits, wages have been properly included once for one
12 benefit year or for one base period, such wages shall not
13 thereafter be included again in the computation of his
14 benefits for any other benefit year or in his wages for any
15 other base period respectively.

16 "(c) Determination of employer benefit charges.

17 "(1) An employer's benefit charges for each and
18 every fiscal year shall be the total of the regular benefits
19 and the state's share of the extended benefits paid during
20 such fiscal year to all of his employees or former employees
21 which are attributable to wages paid by such employer to his
22 employees or former employees; except as is provided by
23 paragraph a. of subdivision (a) (5) of Section 25-4-51 for
24 governmental entities.

25 "(2) The director shall analyze the benefit payments
26 in each fiscal year and determine each employer's benefit
27 charges for each fiscal year.

1 "(3) The director shall, after the close of each
2 calendar quarter, furnish each employer with a statement of
3 the benefits paid to his workers, or former workers, which
4 became his benefit charges in that calendar quarter, together
5 with the names of such workers, or former workers, and such
6 statement, in the absence of an application for a revision
7 thereof within 30 days of the mailing of such statement to the
8 employer's last known address, shall be conclusive and final
9 upon the employer for all purposes and in all proceedings
10 whatsoever. Such application for revision shall be in the form
11 and manner prescribed by regulation of the director. Upon
12 receipt of, within the time allowed, an application for
13 revision of such statement, the director shall allow such
14 application in whole or in part, or shall deny such
15 application and shall serve notice upon the employer of such
16 decision. Such decision of the director shall be final and
17 conclusive on the employer at the expiration of 30 days from
18 the date of service of such notice, unless the employer shall
19 within the 30-day period file with the director a written
20 protest and a petition for hearing, specifying his objections
21 thereto. Upon receipt of such petition the director shall fix
22 a time and place for a hearing and shall notify the employer
23 thereof. At any hearing held as herein provided, the decision
24 of the director shall be prima facie correct, and the burden
25 shall be upon the protesting employer to prove it is
26 incorrect. No employer shall have the right to object to the
27 benefit charges with respect to any worker as shown on such

1 statement, unless he shall first show that such charges arose
2 as a result of benefits paid to such worker in accordance with
3 a determination, or a redetermination, to which such employer
4 was a party entitled to notice thereof, as provided by Article
5 5 of this chapter, and shall further show that he was not
6 notified of such determination or redetermination in
7 accordance with the requirements of Article 5 of this chapter.
8 Nothing herein contained shall affect the right of any
9 employer at such hearing to object to such statement of
10 benefit charges on the ground that it is incorrect by reason
11 of a clerical error made by the director or any of his
12 employees. The employer shall be promptly notified by mail of
13 the director's decision. Such decision shall be final and
14 conclusive unless an appeal is taken therefrom in the manner
15 and within the time prescribed in subsection (h) of this
16 section.

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

26 "(5) Any Alabama unemployment compensation benefits
27 paid to any claimant under the following conditions shall not

1 be charged to the account of a contributory base period
2 employer(s) for the state fiscal year ending June 30, 1996,
3 and each fiscal year thereafter, if:

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

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

9 "c. The benefits are paid from the Alabama U.I.
10 Trust Fund to claimants who would have been eligible for
11 disaster unemployment assistance under this act, if they have
12 not first received Alabama unemployment insurance benefits
13 with respect to their unemployment.

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

1 throughout the three most recent preceding fiscal years, shall
2 be a percentage obtained by dividing the total of his benefit
3 charges for the period throughout which he has been
4 chargeable, such period to be not less than the most recent
5 preceding fiscal year by that part of his total taxable
6 payroll for the same period with respect to which
7 contributions have been paid on or before July 31 next
8 following such period. The employers benefit ratio shall be
9 computed to the fourth decimal and be used in determining each
10 employer's contribution rate as prescribed in subsection (a)
11 of this section for the next calendar year; except that:

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

21 "(e) Shared costs.

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

26 "a. Benefit charges which cannot be effectively
27 assigned to an individual employer's experience rating account

1 during such fiscal year because of the employer becoming
2 inactive (in accordance with Section 25-4-130); and

3 "b. The total amount of the difference between the
4 benefit charges to all employers during the fiscal year who
5 are assigned the maximum rate of contribution under any one of
6 the rate schedules for the calendar year next following such
7 fiscal year and the total amount of contributions received
8 from all such maximum rated employers during the same fiscal
9 year; and

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

16 "d. Benefit overpayments which have been declared
17 uncollectible or have been waived by the director during the
18 fiscal year pursuant to the applicable provisions of this
19 chapter; and

20 "e. Contributions due from employers but not paid
21 and which have been, during such fiscal year, declared
22 uncollectible by the bankruptcy courts or official action by
23 the director; and

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

1 "(2) The total of the amounts determined under the
2 provisions of subdivision (1) above shall be the statewide
3 total shared cost for any fiscal year.

4 "(3) Net shared costs for any fiscal year shall be
5 the statewide total of shared costs for that fiscal year
6 reduced (but not below zero) by the amount of:

7 "a. Interest received by the fund from the U.S.
8 Treasury during such fiscal year; and

9 "b. The total amount of the difference between the
10 contributions received from all employers during such fiscal
11 year who are assigned the minimum rate of contributions under
12 any one of the rate schedules for the calendar year next
13 following such fiscal year and the total of all benefit
14 charges made to all such minimum rated employers during the
15 same fiscal year.

16 "(4) To determine the "shared cost ratio" for any
17 fiscal year, the net shared cost for such fiscal year shall be
18 divided by the statewide total of taxable wages for the same
19 fiscal year which have been reported by all contributory
20 employers and upon which contributions have been timely paid
21 (reduced by the total of the taxable wages reported and timely
22 paid on by any employer or employers for the same fiscal year,
23 who by the provisions of subdivision (5) of this subsection
24 (e) are relieved of the shared cost assessment). The resulting
25 quotient adjusted to the nearest multiple of one-thousandth
26 shall be the "shared cost ratio" applicable for assessment to

1 all contributory employers for the next following calendar
2 year.

3 "(5)a. Except as is hereinafter provided, the shared
4 cost ratio as computed under the above provision for each
5 fiscal year shall, for the next calendar year, be assessed
6 each employer eligible for a rate determination under the
7 provision of subdivision (a)(1) of this section, in addition
8 to the rate of contributions determined by the tables
9 contained in subsection (f) of this section.

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

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

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

23 "b. The assessment for shared costs shall become due
24 and payable at the same time and in the same manner as
25 contributions.

26 "c. The authority of the director to enforce
27 collection of any shared cost assessment shall be the same as

1 is provided in this chapter for the enforcement of the
2 collections of contributions.

3 "(f) Notice of contribution rate, etc.; maximum
4 rate. The contribution rates (expressed as a percentage of
5 taxable wages) for each employer, as provided in subsection
6 (a) of this section, shall be determined by the director and
7 the director shall notify each employer of his benefit ratio
8 and his contribution rate no later than 31 days after the ef-
9 fective date of such rate. Such employer contribution rate for
10 the tax rate years beginning January 1, 1991, shall be deter-
11 mined from the appropriate rate schedule prescribed for that
12 tax rate year by the provisions of subsection (g) of this sec-
13 tion and shall be the rate which appears on the same horizon-
14 tal line on which is found the employer's benefit ratio.

15 TAX RATE TABLE

16 EMPLOYER TAX RATE SCHEDULE:

17

IF THE EM-
PLOYER'S BEN-
EFIT RATIO

18	LINE	IS:	A	B	C	D
19	NO.					
20	1	0.00-0.39	0.20	0.35	0.50	0.65

1	2	0.40-0.59	0.35	0.50	0.65	0.80
2	3	0.60-0.79	0.50	0.70	0.90	1.00
3	4	0.80-0.99	0.70	0.90	1.10	1.20
4	5	1.00-1.19	0.85	1.10	1.30	1.40
5	6	1.20-1.39	1.00	1.30	1.55	1.65
6	7	1.40-1.59	1.15	1.50	1.75	1.90
7	8	1.60-1.79	1.30	1.70	1.95	2.15
8	9	1.80-1.99	1.45	1.90	2.15	2.40
9	10	2.00-2.19	1.60	2.10	2.40	2.65
10	11	2.20-2.39	1.75	2.30	2.60	2.85
11	12	2.40-2.59	1.90	2.50	2.80	3.10
12	13	2.60-2.79	2.05	2.70	3.05	3.35
13	14	2.80-2.99	2.20	2.90	3.25	3.60
14	15	3.00-3.19	2.35	3.10	3.50	3.85
15	16	3.20-3.59	2.50	3.40	3.80	4.20
16	17	3.60-3.99	2.80	3.80	4.25	4.70
17	18	4.00-4.39	3.10	4.20	4.70	5.20
18	19	4.40-4.79	3.40	4.60	5.10	5.70
19	20	4.80-5.19	3.70	5.00	5.50	6.20
20	21	5.20-5.59	4.00	5.40	6.00	6.70
21	22	5.60-5.99	4.30	5.40	6.00	6.70
22	23	6.00-6.39	4.60	5.40	6.10	6.80

1	24	6.40-6.79	4.90	5.40	6.10	6.80
2	25	6.80-7.19	5.20	5.40	6.10	6.80
3	26	7.20 or over	5.40	5.40	6.10	6.80

4 "The provisions of this subsection (f) to the con-
5 trary notwithstanding, the rates of contribution shall, after
6 having been determined as herein prescribed, be adjusted as
7 follows for calendar quarters beginning after March 31, 1992
8 and ending September 30, ~~2011~~ 2013:

9	If the rate of contribu-	
10	tion specified by the Tax	
11	Rate Table contained in	The employer's contribution rate
12	this section is:	shall be:
13	0.20	0.14
14	0.35	0.29
15	0.50	0.44
16	0.65	0.59
17	0.70	0.64
18	0.80	0.74
19	0.85	0.79
20	0.90	0.84
21	1.00	0.94
22	1.10	1.04

1	1.15	1.09
2	1.20	1.14
3	1.30	1.24
4	1.40	1.34
5	1.45	1.39
6	1.50	1.44
7	1.55	1.49
8	1.60	1.54
9	1.65	1.59
10	1.70	1.64
11	1.75	1.69
12	1.90	1.84
13	1.95	1.89
14	2.05	1.99
15	2.10	2.04
16	2.15	2.09
17	2.20	2.14
18	2.30	2.24
19	2.35	2.29
20	2.40	2.34
21	2.50	2.44
22	2.60	2.54

1	2.65	2.59
2	2.70	2.64
3	2.80	2.74
4	2.85	2.79
5	2.90	2.84
6	3.05	2.99
7	3.10	3.04
8	3.25	3.19
9	3.35	3.29
10	3.40	3.34
11	3.50	3.44
12	3.60	3.54
13	3.70	3.64
14	3.80	3.74
15	3.85	3.79
16	4.00	3.94
17	4.20	4.14
18	4.25	4.19
19	4.30	4.24
20	4.60	4.54
21	4.70	4.64
22	4.90	4.84

1	5.00	4.94
2	5.10	5.04
3	5.20	5.14
4	5.40	5.40
5	5.50	5.44
6	5.70	5.64
7	6.00	5.94
8	6.10	6.04
9	6.20	6.14
10	6.70	6.64
11	6.80	6.74

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

1 5.4 percent, or is above 5.4 percent and by the application of
2 the adjustment would become a rate less than 5.4 percent; and
3 all employers who being eligible for such option have elected
4 the option to make payments in lieu of contributions.

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

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

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

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

12 "a. One hundred twenty-five percent or more of the
13 desired level computed for the fiscal year, contribution rates
14 shall be determined under Schedule A;

15 "b. Equal to the desired level but is less than 125
16 percent thereof, contribution rates shall be determined under
17 Schedule B.

18 "c. Less than the desired level but is at least 70
19 percent thereof, contribution rates shall be determined under
20 Schedule C.

21 "d. Less than 70 percent of the desired level,
22 contribution rates shall be determined under Schedule D.

23 "(4) Any amount credited to this state's account
24 under Section 903 of the Social Security Act, as amended,
25 which has been appropriated for expenses of administration,
26 whether or not withdrawn from the trust fund, shall be
27 included in the trust fund balance in determining whether or

1 not such fund is greater or less than the desired level of the
2 fund for a fiscal year; except, that any amount appropriated
3 and withdrawn which will not be repaid to the fund shall not
4 be included in such balances.

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

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

1 such security for costs as the court may upon application
2 prescribe. Trial in that court shall be de novo with respect
3 to his benefit 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 taxable payroll with respect to which
7 contributions have been paid, shall be deemed benefit charges
8 and taxable payrolls of a successor employer and shall be
9 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 predecessor's
16 benefit charges and that part of his predecessor's total
17 taxable payroll, with respect to which contributions have been
18 paid which correspond to the segregable portion of the
19 business assets and payroll thereof, acquired from his
20 predecessor, deemed to be his benefit charges and his payroll
21 and such shall be taken into account in determining his rates,
22 as provided in subsection (f) of this section; provided, that
23 he:

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

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

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

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