

**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 12-0796.02 Bart Miller x2173

SENATE BILL 12-177

SENATE SPONSORSHIP

Jahn, Cadman

HOUSE SPONSORSHIP

Liston and Pabon, Duran, Gardner B., McNulty, Priola, Soper, Swalm, Swerdfeger, Szabo,
Tyler, Williams A.

Senate Committees

Business, Labor and Technology

House Committees

A BILL FOR AN ACT

101 **CONCERNING ADMINISTRATION OF THE UNEMPLOYMENT INSURANCE**
102 **PROGRAM IN ORDER TO STABILIZE UNEMPLOYMENT INSURANCE**
103 **RATES, AND, IN CONNECTION THEREWITH, FACILITATING THE**
104 **ISSUANCE OF UNEMPLOYMENT REVENUE BONDS AND**
105 **ACCELERATING THE CREATION OF THE DIVISION OF**
106 **UNEMPLOYMENT INSURANCE IN THE DEPARTMENT OF LABOR**
107 **AND EMPLOYMENT.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

http://www.leg.state.co.us/bills/summaries.)

Under current law, the Colorado housing and finance authority may issue unemployment revenue bonds for the unemployment compensation fund. The bill makes the following changes to current law:

- ! Makes the unemployment insurance laws consistent with those of the Colorado housing and finance authority with respect to the issuance of unemployment revenue bonds by either the unemployment compensation section or the Colorado housing and finance authority.
- ! Authorizes the deposit of all or any portion of bond assessments paid by employers for principal of the bonds into the unemployment compensation fund prior to being transferred to the Colorado housing and finance authority. This allows these payments to count toward improving the experience rating of employers.
- ! Authorizes the assessment of interest and other bond costs through the employment support fund and requires the transfer of these assessments to the Colorado housing and finance authority for the payment of interest and other costs associated with the bonds.

In order to facilitate the issuance of unemployment revenue bonds, the bill accelerates the date for the creation of the division of unemployment insurance by adding an effective date of June 1, 2012, to House Bill 12-1120 and placing a safety clause on that bill.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds, determines, and declares that:

4 (a) The purpose of this act is to establish a bond payment structure
5 that allows Colorado employers to receive positive recognition in the
6 calculation of unemployment insurance premium payments for the
7 payment of bonds that may be issued to finance the unemployment
8 insurance trust fund; and

9 (b) Nothing in this act is intended to either increase or decrease
10 state unemployment benefits, now or in the future.

11 **SECTION 2.** In Colorado Revised Statutes, 8-70-103, **amend**

1 (13) as follows:

2 **8-70-103. Definitions.** As used in articles 70 to 82 of this title,
3 unless the context otherwise requires:

4 (13) "Fund" means the unemployment compensation fund,
5 established in section 8-77-101 (1), to which all premiums required and
6 from which all benefits under articles 70 to 82 of this title ~~shall be~~ AND
7 BONDS ISSUED UNDER SECTION 8-71-103 (2) (d) ARE paid AND FROM
8 WHICH PAYMENTS MAY BE MADE TO THE COLORADO HOUSING AND
9 FINANCE AUTHORITY UNDER SECTION 29-4-710.7, C.R.S.

10 **SECTION 3.** In Colorado Revised Statutes, 8-71-103, **amend as**
11 **amended by House Bill 12-1120** (2) (b) (I) and (2) (d) as follows:

12 **8-71-103. Organization of division.** (2) (b) (I) Except as
13 provided in subparagraph (II) of this paragraph (b), the enterprise
14 established pursuant to this subsection (2) has all the powers and duties
15 authorized by articles 70 to 82 of this title pertaining to unemployment
16 insurance and unemployment compensation. ALL MONEYS DEPOSITED
17 INTO THE UNEMPLOYMENT COMPENSATION FUND CONSTITUTE REVENUES
18 AND RESOURCES OF THE DIVISION OF UNEMPLOYMENT INSURANCE, AND
19 ALL EXPENSES FROM THE UNEMPLOYMENT COMPENSATION FUND
20 CONSTITUTE EXPENDITURES OF THE REVENUES OF THE DIVISION OF
21 UNEMPLOYMENT INSURANCE.

22 (d) (I) ~~Subject to approval by the general assembly, either by bill~~
23 ~~or by joint resolution, and after approval by the governor pursuant to~~
24 ~~section 39 of article V of the state constitution, the division is hereby~~
25 ~~authorized to issue revenue bonds for the expenses of the division,~~
26 ~~secured by any revenues of the division.~~ UPON RECEIVING THE
27 CERTIFICATIONS SPECIFIED IN SUBPARAGRAPH (III) AND (IV) OF THIS

1 PARAGRAPH (d), THE DIVISION MAY ISSUE REVENUE BONDS FOR THE
2 EXPENSES OF THE DIVISION AS PROVIDED IN THIS PARAGRAPH (d) TO
3 PROVIDE SUFFICIENT FUNDS TO MAINTAIN ADEQUATE BALANCES IN THE
4 UNEMPLOYMENT COMPENSATION FUND; TO REPAY AMOUNTS ADVANCED
5 TO THE STATE PURSUANT TO 42 U.S.C. SEC. 1321; TO PAY THE PRINCIPAL
6 OF, AND INTEREST AND PREMIUM, IF ANY, ON, THE BONDS, THE COSTS OF
7 BOND ISSUANCE AND ADMINISTRATION, AND ANY OTHER RELATED FEES
8 AND COSTS OF THE DIVISION; TO ESTABLISH RESERVES FOR ANY OR ALL OF
9 THE PURPOSES SPECIFIED IN THIS SUBPARAGRAPH (I); AND TO MAKE
10 DEPOSITS INTO THE UNEMPLOYMENT COMPENSATION FUND AND
11 OTHERWISE APPLY THE PROCEEDS OF THE BONDS FOR ANY OR ALL OF
12 THESE PURPOSES;

13 (II) ALL BONDS ISSUED PURSUANT TO THIS PARAGRAPH (d) ARE
14 LIMITED OBLIGATIONS OF THE DIVISION, PAYABLE SOLELY FROM THE
15 REVENUES OF THE DIVISION, AND MAY BE SECURED BY A PLEDGE OF THESE
16 REVENUES. ANY BONDS ISSUED PURSUANT TO THIS PARAGRAPH (d) MUST
17 BE EXECUTED AND DELIVERED BY THE DIRECTOR OF THE DIVISION AND
18 MAY BE IN THE FORM OF, MAY BE SOLD AS, AND MAY HAVE THE SAME
19 TERMS AS, BONDS ISSUED UNDER SECTION 43-4-807, C.R.S.

20 (III) THE DIVISION MAY NOT ISSUE ITS BONDS PURSUANT TO THIS
21 PARAGRAPH (d) UNTIL THE MONTHLY BALANCE IN THE UNEMPLOYMENT
22 COMPENSATION FUND IS EQUAL TO OR LESS THAN NINE-TENTHS OF ONE
23 PERCENT OF THE TOTAL WAGES REPORTED BY RATABLE EMPLOYERS FOR
24 THE CALENDAR YEAR, OR FOR THE MOST RECENT AVAILABLE FOUR
25 CONSECUTIVE QUARTERS PRIOR TO THE LAST COMPUTATION DATE, AND
26 THE GOVERNOR, THE STATE TREASURER, AND THE EXECUTIVE DIRECTOR
27 OF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAVE EACH CERTIFIED

1 IN WRITING TO THE DIVISION:

2 (A) THAT OTHER FUNDING ALTERNATIVES TO THE ISSUANCE OF
3 BONDS BY THE DIVISION UNDER THIS PARAGRAPH (d) HAVE BEEN
4 CONSIDERED AND THAT THE ISSUANCE OF SUCH BONDS IS THE MOST
5 COST-EFFECTIVE MEANS FOR THE DIVISION TO MAINTAIN ADEQUATE
6 BALANCES IN THE UNEMPLOYMENT COMPENSATION FUND OR TO REPAY
7 MONEYS ADVANCED TO THE STATE PURSUANT TO 42 U.S.C. SEC. 1321;

8 (B) THE AMOUNT OF MONEY REQUIRED TO MAINTAIN ADEQUATE
9 BALANCES IN THE UNEMPLOYMENT COMPENSATION FUND OR TO REPAY
10 MONEYS ADVANCED TO THE STATE PURSUANT TO 42 U.S.C. SEC. 1321, OR
11 BOTH; AND

12 (C) THE AMOUNT OF BONDS TO BE ISSUED.

13 (IV) IN ADDITION TO THE WRITTEN CERTIFICATIONS SPECIFIED IN
14 SUBPARAGRAPH (III) OF THIS PARAGRAPH (d), THE EXECUTIVE DIRECTOR
15 OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL CERTIFY IN
16 WRITING THAT THE ISSUANCE OF BONDS AS AUTHORIZED BY LAW WOULD
17 NOT RESULT IN DECERTIFICATION OF COLORADO'S UNEMPLOYMENT
18 INSURANCE PROGRAM, IMPACT ANY CAP APPLICATION, AFFECT THE
19 RECEIPT OF EMERGENCY UNEMPLOYMENT COMPENSATION FUNDS, CREATE
20 AN INELIGIBILITY FOR RECEIPT OF FEDERAL FUNDS, OR RESULT IN OTHER
21 PENALTIES OR SANCTIONS UNDER THE FEDERAL "SOCIAL SECURITY ACT",
22 AS AMENDED, OR THE "FEDERAL UNEMPLOYMENT TAX ACT", AS
23 AMENDED, 26 U.S.C. SEC. 3301 ET SEQ.

24 **SECTION 4.** In Colorado Revised Statutes, 8-77-101, **amend as**
25 **amended by House Bill 12-1120** (1) (a) as follows:

26 **8-77-101. Unemployment compensation fund - state treasurer**
27 **custodian.** (1) (a) There is hereby established the unemployment

1 compensation fund, which is a special fund administered by the division
2 exclusively for the purposes of articles 70 to 82 of this title. The state
3 treasurer is the custodian of the fund and is liable under his or her official
4 bond for the faithful performance of all his or her duties in connection
5 with the fund. The state treasurer shall establish and maintain within the
6 fund the accounts specified in this article and such other accounts as may
7 be necessary to reflect the administration of the fund by the division.
8 NOTWITHSTANDING ANY OTHER LAW, IN LIEU OF OR IN ADDITION TO THE
9 ASSESSMENT DESCRIBED IN SECTION 29-4-710.7, C.R.S., THE DIVISION
10 MAY PAY AMOUNTS NECESSARY AND APPROPRIATE FROM THE
11 UNEMPLOYMENT COMPENSATION FUND TO THE COLORADO HOUSING AND
12 FINANCE AUTHORITY FOR THE REPAYMENT OF THE PRINCIPAL OF BONDS
13 ISSUED UNDER SECTION 29-4-710.7, C.R.S.

14 **SECTION 5.** In Colorado Revised Statutes, 8-77-103.5, **amend**
15 (2) as follows:

16 **8-77-103.5. Issuance of unemployment revenue bonds and**
17 **notes - unemployment bond repayment account - creation.** (2) There
18 is hereby created the unemployment bond repayment account, which shall
19 be credited with ~~all~~ bond assessments FOR NONPRINCIPAL-RELATED BOND
20 COSTS collected on behalf of the Colorado housing and finance authority
21 ~~pursuant to the provisions of~~ UNDER section 29-4-710.7, C.R.S. After the
22 division's costs have been deducted from the bond repayment account,
23 moneys in the fund shall be transferred to the account or accounts
24 maintained by the Colorado housing and finance authority ~~pursuant to the~~
25 ~~provisions of~~ UNDER section 29-4-710.7, C.R.S.

26 **SECTION 6.** In Colorado Revised Statutes, 8-77-109, **amend** (1)
27 (b) (I) as follows:

1 **8-77-109. Employment support fund - employment and**
2 **training technology fund - created - uses - repeal.** (1) (b) (I) There is
3 hereby established the employment support fund. This fund consists of
4 the first 0.0011 assessed as part of each employer's premium under
5 section 8-76-102.5 (3) (a) or the amount expended from the employment
6 support fund in the year prior to July 1, 2011, adjusted by the same
7 percentage change prescribed in section 8-70-103 (6.5), whichever is less.
8 The division must transfer to the unemployment compensation fund
9 amounts in excess of the amount expended from the employment support
10 fund in the year prior to July 1, 2011, adjusted each year by the same
11 percentage change prescribed in section 8-70-103 (6.5). IN ADDITION,
12 REVENUES TO PAY NONPRINCIPAL-RELATED BOND COSTS FOR BONDS
13 ISSUED UNDER SECTION 29-4-710.7, C.R.S., MAY BE ADDED TO AMOUNTS
14 ASSESSED UNDER THIS SECTION. THE DIVISION SHALL TRANSFER REVENUES
15 COLLECTED FOR NONPRINCIPAL-RELATED BOND COSTS FOR BONDS ISSUED
16 UNDER SECTION 29-4-710.7, C.R.S., OR SECTION 8-71-103 TO THE
17 UNEMPLOYMENT BOND REPAYMENT ACCOUNT CREATED IN SECTION
18 8-77-103.5. The employment support fund ~~shall~~ IS not ~~be~~ included in or
19 administered by the enterprise established pursuant to section 8-71-103
20 (2).

21 **SECTION 7.** In Colorado Revised Statutes, 29-4-710.7, **amend**
22 **as amended by House Bill 12-1120** (1) (b) (I) and (1) (b) (III); and **add**
23 (1) (b) (IV) as follows:

24 **29-4-710.7. Powers of the board - issuance of bonds to**
25 **maintain balances in the unemployment compensation fund.**

26 (1) Upon receiving the certifications specified in subsection (2) of this
27 section, the authority, in addition to the other powers granted by this part

1 7, has the following powers:

2 (b) To levy certain bond assessments as follows:

3 (I) (A) All bonds and notes issued pursuant to this section are
4 limited obligations of the authority, payable solely from revenues
5 generated through the levy by the authority of a bond assessment against
6 each employer, as defined in section 8-70-113, C.R.S., subject to
7 experience rating under articles 70 to 82 of title 8, C.R.S., in an aggregate
8 amount sufficient to satisfy subparagraph (II) of this paragraph (b), FROM
9 PAYMENTS FROM THE DIVISION OF UNEMPLOYMENT INSURANCE TO THE
10 AUTHORITY UNDER SECTION 8-77-101 (1), C.R.S., FROM PROCEEDS
11 DERIVED FROM THE SALE OF BONDS AND NOTES ISSUED UNDER THIS
12 SECTION AND FROM THE EARNINGS ON THOSE PROCEEDS, AND ALL MONEY
13 AND SECURITIES IN ALL SPECIAL ACCOUNTS CREATED BY AND UNDER THE
14 CONTROL OF THE AUTHORITY UNDER THIS SECTION. The division of
15 unemployment insurance shall collect and administer the bond assessment
16 on behalf of the authority in substantially the same manner as other
17 employer premiums and surcharges required pursuant to the provisions
18 of UNDER articles 70 to 82 of title 8, C.R.S. Subject to articles 70 to 82 of
19 title 8, C.R.S., the assessment does not apply to the covered employers of
20 state and local government, to those nonprofit organizations that are
21 reimbursable employers, or to political subdivisions electing the special
22 rate.

23 (B) THE DIVISION OF UNEMPLOYMENT INSURANCE MAY DEPOSIT
24 ALL OR ANY PORTION OF MONEYS COLLECTED FROM ASSESSMENTS FOR
25 PRINCIPAL-RELATED BOND REPAYMENT COSTS INTO THE UNEMPLOYMENT
26 COMPENSATION FUND. THE PORTION OF THESE REVENUES DEPOSITED INTO
27 THE UNEMPLOYMENT COMPENSATION FUND CONSTITUTE PART OF EACH

1 EMPLOYER'S UNEMPLOYMENT INSURANCE CONTRIBUTIONS, AND THE
2 DIVISION OF UNEMPLOYMENT INSURANCE SHALL TRANSFER AMOUNTS
3 FROM THESE REVENUES TO THE AUTHORITY FOR THE REPAYMENT OF
4 PRINCIPAL OF BONDS ISSUED UNDER THIS SECTION.

5 (III) ~~All bond~~ EMPLOYERS SHALL SUBMIT BOND assessments
6 described in this paragraph (b) ~~must be submitted~~ ASSOCIATED WITH
7 NONPRINCIPAL-RELATED BOND REPAYMENT COSTS in the same manner as
8 the employer's normal premiums and surcharges paid ~~pursuant to the~~
9 ~~provisions of~~ UNDER articles 70 to 82 of title 8, C.R.S., AND THE
10 ASSESSMENTS are a lien upon the real and personal property of ~~any such~~
11 AN employer in the manner and to the extent set forth in section 8-79-103,
12 C.R.S. ~~must be segregated by the division of unemployment insurance in~~
13 ~~a special account under the control of the division, and must~~ THE
14 DIVISION OF UNEMPLOYMENT INSURANCE SHALL DEPOSIT THESE
15 ASSESSMENTS INTO THE UNEMPLOYMENT BOND REPAYMENT ACCOUNT
16 CREATED IN SECTION 8-77-103.5, C.R.S., AND SHALL, after offsetting the
17 division's costs for collecting and administering the bond assessments, ~~be~~
18 ~~used~~ USE THESE FUNDS only for transfer from time to time to one or more
19 special accounts created by and under the control of the authority. The
20 authority shall use all moneys accruing in ~~any such~~ A special account only
21 to pay ~~the~~ NONPRINCIPAL-RELATED BOND REPAYMENT costs described in
22 subparagraph (II) of this paragraph (b), and the authority shall transfer
23 any moneys remaining in such AN account and not required to pay ~~such~~
24 NONPRINCIPAL-RELATED BOND REPAYMENT costs to the division of
25 unemployment insurance for deposit in the unemployment compensation
26 fund.

27 (IV) EMPLOYERS SHALL SUBMIT BOND ASSESSMENTS DESCRIBED

1 IN THIS PARAGRAPH (b) ASSOCIATED WITH PRINCIPAL-RELATED BOND
2 REPAYMENT COSTS IN THE SAME MANNER AS THE EMPLOYER'S NORMAL
3 PREMIUMS AND SURCHARGES PAID UNDER ARTICLES 70 TO 82 OF TITLE 8,
4 C.R.S., AND THE ASSESSMENTS ARE A LIEN UPON THE REAL AND PERSONAL
5 PROPERTY OF AN EMPLOYER IN THE MANNER AND TO THE EXTENT SET
6 FORTH IN SECTION 8-79-103, C.R.S. THE DIVISION OF UNEMPLOYMENT
7 INSURANCE MAY DEPOSIT ALL OR ANY PORTION OF THE ASSESSMENTS INTO
8 THE UNEMPLOYMENT COMPENSATION FUND. THE PORTION OF THE
9 ASSESSMENTS DEPOSITED INTO THE UNEMPLOYMENT COMPENSATION FUND
10 CONSTITUTE PART OF EACH EMPLOYER'S UNEMPLOYMENT INSURANCE
11 CONTRIBUTIONS. BOND ASSESSMENTS DESCRIBED IN THIS PARAGRAPH (b)
12 ASSOCIATED WITH PRINCIPAL-RELATED BOND REPAYMENT COSTS ARE
13 AVAILABLE FOR TRANSFER FROM TIME TO TIME TO ONE OR MORE SPECIAL
14 ACCOUNTS CREATED BY AND UNDER THE CONTROL OF THE AUTHORITY.
15 ALL MONEYS ACCRUING IN A SPECIAL ACCOUNT FOR PRINCIPAL-RELATED
16 BOND REPAYMENT COSTS CAN BE USED BY THE AUTHORITY ONLY TO PAY
17 THE PRINCIPAL COSTS OF THE BONDS.

18 **SECTION 8. Amend** section 33 of House Bill 12-1120; and **add**
19 section 34 to House Bill 12-1120 as follows:

20 Section 33. ~~Act subject to petition - effective date.~~ This act takes
21 effect at 12:01 a.m. on the day following the expiration of the ninety-day
22 period after final adjournment of the general assembly (August 8, 2012,
23 if adjournment sine die is on May 9, 2012); except that, if a referendum
24 petition is filed pursuant to section 1 (3) of article V of the state
25 constitution against this act or an item, section, or part of this act within
26 such period, then the act, item, section, or part will not take effect unless
27 approved by the people at the general election to be held in November

1 ~~2012 and, in such case, will take effect on the date of the official~~
2 ~~declaration of the vote thereon by the governor.~~ **Effective date.** This act
3 takes effect June 1, 2012.

4 Section 34. **Safety clause.** The general assembly hereby finds,
5 determines, and declares that this act is necessary for the immediate
6 preservation of the public peace, health, and safety.

7 **SECTION 9. Effective date.** This act takes effect June 1, 2012.

8 **SECTION 10. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.