

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

Economic and Business Development

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.

SENATE
3rd Reading Unamended
May 1, 2012

SENATE
Amended 2nd Reading
April 30, 2012

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. THE UNEMPLOYMENT
17 COMPENSATION FUND, CREATED IN SECTION 8-77-101, CONSTITUTES PART
18 OF THE ENTERPRISE ESTABLISHED PURSUANT TO THIS SUBSECTION (2).

19 (d) (I) ~~Subject to approval by the general assembly, either by bill~~
20 ~~or by joint resolution, and after approval by the governor pursuant to~~
21 ~~section 39 of article V of the state constitution, the division is hereby~~
22 ~~authorized to issue revenue bonds for the expenses of the division,~~
23 ~~secured by any revenues of the division.~~ UPON RECEIVING THE
24 CERTIFICATIONS SPECIFIED IN SUBPARAGRAPH (III) AND (IV) OF THIS
25 PARAGRAPH (d), THE DIVISION MAY ISSUE REVENUE BONDS FOR THE SAME
26 PURPOSES AND ON THE SAME TERMS AND LEVY AND APPLY THE PROCEEDS
27 OF BOND ASSESSMENTS FOR THE SAME PURPOSES AND IN THE SAME

1 MANNER AS THE COLORADO HOUSING AND FINANCE AUTHORITY MAY
2 ISSUE BONDS AND LEVY AND APPLY THE PROCEEDS OF BOND ASSESSMENTS
3 UNDER SECTION 29-4-710.7, C.R.S., SUBSTITUTING REFERENCES TO THE
4 DIVISION FOR REFERENCES TO THE AUTHORITY UNDER THAT SECTION.
5 BOND ASSESSMENTS LEVIED BY THE DIVISION MAY BE USED TO PAY
6 REVENUE BONDS ISSUED BY THE DIVISION UNDER THIS PARAGRAPH (d) OR
7 REVENUE BONDS ISSUED BY THE COLORADO HOUSING AND FINANCE
8 AUTHORITY UNDER SECTION 29-4-710.7, C.R.S.

9 (II) ANY BONDS ISSUED PURSUANT TO THIS PARAGRAPH (d) MUST
10 BE EXECUTED AND DELIVERED BY THE DIRECTOR OF THE DIVISION AND
11 MAY BE IN THE FORM, MAY BE SOLD AND MAY HAVE THE SAME TERMS AS
12 PROVIDED IN SECTION 43-4-807 (1) (b) AND (1) (c), C.R.S., MAY CONTAIN
13 THE PROVISIONS PERMITTED BY SECTION 43-4-807 (1) (d), C.R.S., SHALL
14 BE LEGAL INVESTMENTS FOR THE ENTITIES DESCRIBED IN, SUBJECT TO THE
15 TERMS SET FORTH IN, SECTION 43-4-807 (3), C.R.S., AND SHALL BE
16 EXEMPT FROM TAXATION AND ASSESSMENTS IN THE STATE AS PROVIDED
17 IN SECTION 43-4-807 (4), C.R.S. THE DIVISION MAY INVEST OR DEPOSIT
18 ANY PROCEEDS AND INTEREST FROM THE SALE OF SUCH BONDS AS
19 PROVIDED IN SECTION 43-4-807 (2), C.R.S. THE DIVISION SHALL HAVE THE
20 POWER TO ENTER INTO ALL OTHER CONTRACTS OR AGREEMENTS, WHICH
21 CONTRACTS AND AGREEMENTS ARE NOT SUBJECT TO THE "PROCUREMENT
22 CODE", ARTICLES 101 TO 112 OF TITLE 24, C.R.S., THAT ARE NECESSARY
23 OR INCIDENTAL TO THE EXERCISE OF ITS POWERS AND DUTIES UNDER THIS
24 PARAGRAPH (d), INCLUDING THE POWER TO ENGAGE THE SERVICES OF
25 CONSULTANTS, FINANCIAL ADVISORS, UNDERWRITERS, BOND INSURERS,
26 LETTER OF CREDIT BANKS, RATING AGENCIES, AGENTS AND OTHER
27 PERSONS WHOSE SERVICES MAY BE REQUIRED OR DEEMED ADVANTAGEOUS

1 BY THE DIVISION, AND THE POWER TO ENTER INTO INTEREST RATE
2 EXCHANGE AGREEMENTS FOR BONDS THAT HAVE BEEN ISSUED IN
3 ACCORDANCE WITH THIS PARAGRAPH (d). THE AMOUNT OF OUTSTANDING
4 LIABILITY FOR BONDS ISSUED PURSUANT TO THIS PARAGRAPH (d) OR
5 SECTION 29-4-710.7, C.R.S., IS NOT TAKEN INTO ACCOUNT FOR PURPOSES
6 OF RATE SETTING UNDER ARTICLE 76 OF THIS TITLE.

7 (III) THE DIVISION MAY NOT ISSUE ITS BONDS PURSUANT TO THIS
8 PARAGRAPH (d) UNTIL THE MONTHLY BALANCE IN THE UNEMPLOYMENT
9 COMPENSATION FUND IS EQUAL TO OR LESS THAN NINE-TENTHS OF ONE
10 PERCENT OF THE TOTAL WAGES REPORTED BY RATABLE EMPLOYERS FOR
11 THE CALENDAR YEAR, OR FOR THE MOST RECENT AVAILABLE FOUR
12 CONSECUTIVE QUARTERS PRIOR TO THE LAST COMPUTATION DATE, AND
13 THE GOVERNOR, THE STATE TREASURER, AND THE EXECUTIVE DIRECTOR
14 OF THE DEPARTMENT OF LABOR AND EMPLOYMENT HAVE EACH CERTIFIED
15 IN WRITING TO THE DIVISION:

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

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

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

27 (IV) IN ADDITION TO THE WRITTEN CERTIFICATIONS SPECIFIED IN

1 SUBPARAGRAPH (III) OF THIS PARAGRAPH (d), THE EXECUTIVE DIRECTOR
2 OF THE DEPARTMENT OF LABOR AND EMPLOYMENT SHALL CERTIFY IN
3 WRITING THAT THE ISSUANCE OF BONDS AS AUTHORIZED BY LAW WOULD
4 NOT RESULT IN DECERTIFICATION OF COLORADO'S UNEMPLOYMENT
5 INSURANCE PROGRAM, IMPACT ANY CAP APPLICATION, AFFECT THE
6 RECEIPT OF EMERGENCY UNEMPLOYMENT COMPENSATION FUNDS, CREATE
7 AN INELIGIBILITY FOR RECEIPT OF FEDERAL FUNDS, OR RESULT IN OTHER
8 PENALTIES OR SANCTIONS UNDER THE FEDERAL "SOCIAL SECURITY ACT",
9 AS AMENDED, OR THE "FEDERAL UNEMPLOYMENT TAX ACT", AS
10 AMENDED, 26 U.S.C. SEC. 3301 ET SEQ.

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

13 **8-77-101. Unemployment compensation fund - state treasurer**
14 **custodian.** (1) (a) There is hereby established the unemployment
15 compensation fund, which is a special fund administered by the division
16 exclusively for the purposes of articles 70 to 82 of this title. The state
17 treasurer is the custodian of the fund and is liable under his or her official
18 bond for the faithful performance of all his or her duties in connection
19 with the fund. The state treasurer shall establish and maintain within the
20 fund the accounts specified in this article and such other accounts as may
21 be necessary to reflect the administration of the fund by the division.
22 NOTWITHSTANDING ANY OTHER LAW, IN LIEU OF OR IN ADDITION TO THE
23 ASSESSMENT DESCRIBED IN SECTION 29-4-710.7, C.R.S., THE DIVISION
24 MAY PAY AMOUNTS NECESSARY AND APPROPRIATE FROM THE
25 UNEMPLOYMENT COMPENSATION FUND TO THE COLORADO HOUSING AND
26 FINANCE AUTHORITY FOR THE REPAYMENT OF THE PRINCIPAL OF BONDS
27 ISSUED UNDER SECTION 29-4-710.7, C.R.S., AND MAY APPLY AMOUNTS

1 NECESSARY AND APPROPRIATE FROM THE UNEMPLOYMENT COMPENSATION
2 FUND TO THE REPAYMENT OF PRINCIPAL OF BONDS ISSUED UNDER SECTION
3 8-71-103 (2) (d).

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

6 **8-77-103.5. Issuance of unemployment revenue bonds and**
7 **notes - unemployment bond repayment account - creation.** (2) There
8 is hereby created the unemployment bond repayment account, which shall
9 be credited with all bond assessments FOR NONPRINCIPAL-RELATED BOND
10 COSTS collected on behalf of the Colorado housing and finance authority
11 ~~pursuant to the provisions of~~ UNDER section 29-4-710.7, C.R.S., OR BY
12 THE DIVISION UNDER SECTION 8-71-103. After the division's costs have
13 been deducted from the bond repayment account, moneys in the fund
14 shall be ~~transferred~~ PAID to the account or accounts maintained by the
15 Colorado housing and finance authority ~~pursuant to the provisions of~~
16 UNDER section 29-4-710.7, C.R.S., OR BY THE DIVISION WITH RESPECT TO
17 BONDS ISSUED UNDER SECTION 8-71-103.

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

20 **8-77-109. Employment support fund - employment and**
21 **training technology fund - created - uses - repeal.** (1) (b) (I) There is
22 hereby established the employment support fund. This fund consists of
23 the first 0.0011 assessed as part of each employer's premium under
24 section 8-76-102.5 (3) (a) or the amount expended from the employment
25 support fund in the year prior to July 1, 2011, adjusted by the same
26 percentage change prescribed in section 8-70-103 (6.5), whichever is less.
27 The division must transfer to the unemployment compensation fund

1 amounts in excess of the amount expended from the employment support
2 fund in the year prior to July 1, 2011, adjusted each year by the same
3 percentage change prescribed in section 8-70-103 (6.5). IN ADDITION,
4 REVENUES TO PAY NONPRINCIPAL-RELATED BOND COSTS FOR BONDS
5 ISSUED UNDER SECTION 29-4-710.7, C.R.S., OR SECTION 8-71-103 (2) (d)
6 MAY BE ADDED TO AMOUNTS ASSESSED UNDER THIS SECTION. THE
7 DIVISION SHALL TRANSFER REVENUES COLLECTED FOR
8 NONPRINCIPAL-RELATED BOND COSTS FOR BONDS ISSUED UNDER SECTION
9 29-4-710.7, C.R.S., OR SECTION 8-71-103 TO THE UNEMPLOYMENT BOND
10 REPAYMENT ACCOUNT CREATED IN SECTION 8-77-103.5. The employment
11 support fund shall IS not be included in or administered by the enterprise
12 established pursuant to section 8-71-103 (2).

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

16 **29-4-710.7. Powers of the board - issuance of bonds to**
17 **maintain balances in the unemployment compensation fund.**

18 (1) Upon receiving the certifications specified in subsection (2) of this
19 section, the authority, in addition to the other powers granted by this part
20 7, has the following powers:

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

22 (I) (A) All bonds and notes issued pursuant to this section are
23 limited obligations of the authority, payable solely from revenues
24 generated through the levy by the authority of a bond assessment against
25 each employer, as defined in section 8-70-113, C.R.S., subject to
26 experience rating under articles 70 to 82 of title 8, C.R.S., in an aggregate
27 amount sufficient to satisfy subparagraph (II) of this paragraph (b) OR

1 FROM REVENUES GENERATED THROUGH THE LEVY BY THE DIVISION OF
2 UNEMPLOYMENT INSURANCE OF A BOND ASSESSMENT UNDER SECTION
3 8-71-103 (2) (d), C.R.S., FROM PAYMENTS FROM THE DIVISION OF
4 UNEMPLOYMENT INSURANCE TO THE AUTHORITY OR MONEYS APPLIED BY
5 THE DIVISION UNDER SECTION 8-77-101 (1), C.R.S., FROM PROCEEDS
6 DERIVED FROM THE SALE OF BONDS AND NOTES ISSUED UNDER THIS
7 SECTION AND FROM THE EARNINGS ON THOSE PROCEEDS, AND ALL MONEY
8 AND SECURITIES IN ALL SPECIAL ACCOUNTS CREATED BY AND UNDER THE
9 CONTROL OF THE AUTHORITY UNDER THIS SECTION. The division of
10 unemployment insurance shall collect and administer the bond assessment
11 ~~on behalf of the authority~~ in substantially the same manner as other
12 employer premiums and surcharges required pursuant to the provisions
13 of UNDER articles 70 to 82 of title 8, C.R.S. Subject to articles 70 to 82 of
14 title 8, C.R.S., the assessment does not apply to the covered employers of
15 state and local government, to those nonprofit organizations that are
16 reimbursable employers, or to political subdivisions electing the special
17 rate.

18 (B) THE DIVISION OF UNEMPLOYMENT INSURANCE MAY DEPOSIT
19 ALL OR ANY PORTION OF MONEYS COLLECTED FROM ASSESSMENTS FOR
20 PRINCIPAL-RELATED BOND REPAYMENT COSTS INTO THE UNEMPLOYMENT
21 COMPENSATION FUND. THE PORTION OF THESE REVENUES DEPOSITED INTO
22 THE UNEMPLOYMENT COMPENSATION FUND CONSTITUTE PART OF EACH
23 EMPLOYER'S UNEMPLOYMENT INSURANCE CONTRIBUTIONS, AND THE
24 DIVISION OF UNEMPLOYMENT INSURANCE SHALL PAY AMOUNTS FROM
25 THESE REVENUES TO THE AUTHORITY FOR THE REPAYMENT OF PRINCIPAL
26 OF BONDS ISSUED UNDER THIS SECTION OR SECTION 8-71-103 (2) (d),
27 C.R.S.

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

24 (IV) EMPLOYERS SHALL SUBMIT BOND ASSESSMENTS DESCRIBED
25 IN THIS PARAGRAPH (b) ASSOCIATED WITH PRINCIPAL-RELATED BOND
26 REPAYMENT COSTS IN THE SAME MANNER AS THE EMPLOYER'S NORMAL
27 PREMIUMS AND SURCHARGES PAID UNDER ARTICLES 70 TO 82 OF TITLE 8,

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

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

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

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

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

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