

ESB 1175

THE HOUSE OF REPRESENTATIVES
Monday, April 13, 2009

ENGROSSED
Senate Bill No. 1175
As Amended

ENGROSSED SENATE BILL NO. 1175 - By: STANISLAWSKI AND MAZZEI of the Senate and WATSON of the House.

(labor - Oklahoma Unemployment Insurance Trust Fund Security Act of 2009
- codification - noncodification -
effective date)

1 SECTION 1. NEW LAW A new section of law not to be codified in the
2 Oklahoma Statutes reads as follows:

3 This act shall be known and may be cited as the "Oklahoma Unemployment
4 Insurance Trust Fund Security Act of 2009".

5 SECTION 2. NEW LAW A new section of law not to be codified in the
6 Oklahoma Statutes reads as follows:

7 The State of Oklahoma finds that the programs administered by the Oklahoma
8 Employment Security Commission are necessary for the economic well-being of workers
9 and employers in Oklahoma. Due to recent funding shortfalls by the federal government,
10 the effectiveness and integrity of the Oklahoma Employment Security Commission
11 programs are being compromised, and this will in turn have a negative impact on
12 Oklahoma's Unemployment Trust Fund. If the balance of the Unemployment Trust

1 Fund is reduced by large layoffs, fraud and abuse or a failure to reemploy laid-off
2 workers as quickly as possible, all Oklahoma workers and employers will be financially
3 impacted. If the balance of the Unemployment Trust Fund falls, benefits to laid-off
4 workers will be reduced and taxes to employers will be increased.

5 In order to avoid these adverse consequences, it is the intention of the State of
6 Oklahoma that programs should be put in place and maintained that will use
7 reemployment services to reduce the duration of unemployment claims when they occur,
8 and combat fraud and abuse of the system. This will have the effect of increasing
9 Oklahoma's economic competitiveness with other states and modernize the
10 unemployment insurance system.

11 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
12 Statutes as Section 3-109.3 of Title 40, unless there is created a duplication in
13 numbering, reads as follows:

14 Notwithstanding the provisions of Sections 3-103, 3-109, 3-110, and 3-113 of Title
15 40 of the Oklahoma Statutes, for any tax year beginning after December 31, 2010, the
16 contribution rate assigned to an employer shall be reduced by six percent (6%). Provided,
17 the tax rate of employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of
18 Title 40 of the Oklahoma Statutes shall not be reduced to less than one percent (1%).
19 Provided further, employers who qualify for an earned rate calculated pursuant to
20 Section 3-109 of Title 40 of the Oklahoma Statutes, and are given the highest rate in the
21 rate scale, shall not be eligible for the rate reduction provided for in this section.

1 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 6-201 of Title 40, unless there is created a duplication in numbering,
3 reads as follows:

4 A. There is hereby created in the State Treasury a revolving fund for the Oklahoma
5 Employment Security Commission to be designated the "OESC Administrative Fund".
6 The OESC Administrative Fund shall be separate and distinct from the Unemployment
7 Compensation Fund, and all other special funds, and shall consist of:

- 8 1. All monies received from employers and paid pursuant to Section 7 of this act;
- 9 2. All other sums, from whatever source, received by the Commission and paid into
10 the OESC Administrative Fund; and
- 11 3. Property and securities acquired by and through the use of monies in the OESC
12 Administrative Fund.

13 B. The OESC Administrative Fund shall be a continuing fund, not subject to fiscal
14 year limitations. All monies accruing to the credit of the OESC Administrative Fund are
15 hereby appropriated and shall be budgeted and expended for the purposes set forth in
16 Section 5 of this act. Expenditures from the OESC Administrative Fund shall be made
17 upon warrants issued by the State Treasurer against claims filed, as prescribed by law,
18 with the Director of State Finance for approval and payment.

19 SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 6-202 of Title 40, unless there is created a duplication in numbering,
21 reads as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 A. Subject to the limitations set out in subsection B of this section, the monies in
2 the OESC Administrative Fund shall only be used to pay expenses incurred by the
3 Oklahoma Employment Security Commission in the administration of any program or
4 service under the control of the Oklahoma Employment Security Commission.

5 B. 1. The Oklahoma Employment Security Commission may withdraw a maximum
6 of Twelve Million Dollars (\$12,000,000.00) per calendar year from the OESC
7 Administrative Fund for administrative expenses described in subsection A of this
8 section.

9 2. Any money remaining in the fund, after the maximum amount has been
10 withdrawn or transferred under paragraph 1 of this subsection, shall be held in the fund
11 for use in a future year or deposited in the Unemployment Trust Fund pursuant to the
12 provisions of Section 7 of this act.

13 SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma
14 Statutes as Section 6-203 of Title 40, unless there is created a duplication in numbering,
15 reads as follows:

16 A. The State Treasurer shall be the custodian and treasurer of the OESC
17 Administrative Fund.

18 B. The State Treasurer shall deposit the monies belonging to the OESC
19 Administrative Fund that are in his or her custody, subject to the provisions of Sections 5
20 and 7 of this act.

21 C. The State Treasurer, as custodian of the OESC Administrative Fund, shall hold,
22 invest, transfer, sell, deposit and release those monies, properties or securities in a

1 manner approved by the Oklahoma Employment Security Commission. Provided,
2 however, that those monies shall be invested in the classes of securities legal for
3 investment of public monies of this state. Provided further, the investment shall at all
4 times be so made that all assets of the OESC Administrative Fund shall always be
5 readily convertible into cash when needed for any expenditure authorized in Section 5 of
6 this act.

7 SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma
8 Statutes as Section 6-204 of Title 40, unless there is created a duplication in numbering,
9 reads as follows:

10 A. 1. For any tax year beginning after December 31, 2010, each employer subject to
11 the provisions of Sections 3-103, 3-109 and 3-110 of Title 40 of the Oklahoma Statutes
12 shall be required to pay an OESC Administrative Fund assessment equal to six percent
13 (6%) of the unemployment contributions that would be owed to the Oklahoma
14 Employment Security Commission before any rate reduction is made pursuant to Section
15 3 of this act. This assessment shall be in addition to any contribution which that
16 employer is required to make pursuant to the provisions of the Employment Security Act
17 of 1980.

18 2. The assessment provided for in this section shall not be considered part of any
19 contribution required of an individual employer pursuant to the Employment Security
20 Act of 1980, nor shall it be considered for purposes of determining the individual
21 employer's contribution rate.

1 B. Employers assigned a tax rate pursuant to Sections 3-103 and 3-110 of Title 40
2 of the Oklahoma Statutes shall pay an OESC Administrative Fund assessment equal to
3 the rate reduction granted them pursuant to Section 3 of this act.

4 C. Employers who qualify for an earned rate calculated pursuant to Section 3-109
5 of Title 40 of the Oklahoma Statutes, and are given the highest rate in the rate scale,
6 shall be exempt from the provisions of this section.

7 D. Employers making payments in lieu of contributions pursuant to Sections 3-702,
8 3-705 and 3-806 of Title 40 of the Oklahoma Statutes shall be exempt from the provisions
9 of this section.

10 E. The assessment shall be made and collected by the Oklahoma Employment
11 Security Commission for deposit, on a quarterly basis, to the credit of the OESC
12 Administrative Fund. Provided, all monies received by the Oklahoma Employment
13 Security Commission for the account of the OESC Administrative Fund, upon receipt,
14 shall be deposited in a clearance account in a financial institution located in this state.

15 F. On December 31 of each year, the Chief Financial Officer of the Oklahoma
16 Employment Security Commission will certify the balance in the OESC Administrative
17 Fund. If the balance of the fund is more than Eighteen Million Dollars (\$18,000,000.00),
18 the Chief Financial Officer shall further certify the amount over that sum as excess
19 funds. The Chief Financial Officer will transfer the certified amount of excess funds to
20 the Unemployment Trust Fund for the State of Oklahoma. The transfer will occur in one
21 payment on or before January 15, following a certification that excess funds as defined in
22 this subsection exist.

1 G. The Oklahoma Employment Security Commission shall promulgate such rules
2 as may be necessary to implement the provisions of this act.

3 SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma
4 Statutes as Section 6-205 of Title 40, unless there is created a duplication in numbering,
5 reads as follows:

6 The Oklahoma Employment Security Commission shall adopt and implement an
7 agency wide performance improvement program. The performance improvement
8 program will ensure that all agency operations are utilizing technological and personnel
9 resources in the most effective and efficient manner and that the needs of Oklahoma
10 employers and persons using the Unemployment Benefit Program and the Employment
11 Service are being met. The Oklahoma Employment Security Commission will develop an
12 implementation plan that will identify performance improvement program methodologies
13 and action steps for the program. The implementation plan will be in writing and
14 submitted for a one-time approval to the Commissioners of the Oklahoma Employment
15 Security Commission. The Oklahoma Employment Security Commission shall submit
16 semiannual reports of measurable goals and action plan progress, including verifiable
17 program improvement, to the Commissioners of the Oklahoma Employment Security
18 Commission and the Secretary of Commerce and Tourism.

19 SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma
20 Statutes as Section 6-206 of Title 40, unless there is created a duplication in numbering,
21 reads as follows:

1 If the Oklahoma Legislature makes an appropriation of money from a Reed Act
2 distribution received pursuant to 42 U.S.C. Section 1103, then the amount allowed to be
3 withdrawn from the OESC Administrative Fund pursuant to subsection B of Section 5 of
4 this act in a given calendar year, shall be reduced by the amount of funds drawn down
5 from the Reed Act appropriation by the Oklahoma Employment Security Commission for
6 the payment of administrative expenses in that same calendar year.

7 SECTION 10. This act shall become effective November 1, 2009.

8 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS AND BUDGET,
9 dated 04-09-09 - DO PASS, As Amended.