

SB 1175

THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 1175
As Amended

SENATE BILL NO. 1175 - By: Stanislawski of the Senate and Watson of the House.

[labor - Oklahoma Unemployment Insurance Trust Fund Security Act of 2009 - codification - noncodification - effective date]

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

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

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

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

The State of Oklahoma finds that the programs administered by the Oklahoma Employment Security Commission are necessary for the economic well-being of workers and employers in Oklahoma. Due to recent funding shortfalls by the federal government, the effectiveness and integrity of the Oklahoma Employment Security Commission programs are being compromised, and this will in turn have a negative impact on Oklahoma's Unemployment Trust Fund. If the balance of the Unemployment Trust Fund is reduced by large layoffs, fraud and abuse or a failure to reemploy laid-off workers

1 as quickly as possible, all Oklahoma workers and employers will be
2 financially impacted. If the balance of the Unemployment Trust Fund
3 falls, benefits to laid-off workers will be reduced and taxes to
4 employers will be increased.

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

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

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

1 scale, shall not be eligible for the rate reduction provided for in
2 this section.

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

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

12 1. All monies received from employers and paid pursuant to
13 Section 7 of this act;

14 2. All other sums, from whatever source, received by the
15 Commission and paid into the OESC Administrative Fund; and

16 3. Property and securities acquired by and through the use of
17 monies in the OESC Administrative Fund.

18 B. The OESC Administrative Fund shall be a continuing fund, not
19 subject to fiscal year limitations. All monies accruing to the
20 credit of the OESC Administrative Fund are hereby appropriated and
21 shall be budgeted and expended for the purposes set forth in Section
22 5 of this act. Expenditures from the OESC Administrative Fund shall
23 be made upon warrants issued by the State Treasurer against claims

1 filed, as prescribed by law, with the Director of State Finance for
2 approval and payment.

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

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

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

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

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

1 A. The State Treasurer shall be the custodian and treasurer of
2 the OESC Administrative Fund.

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

6 C. The State Treasurer, as custodian of the OESC Administrative
7 Fund, shall hold, invest, transfer, sell, deposit and release those
8 monies, properties or securities in a manner approved by the
9 Oklahoma Employment Security Commission. Provided, however, that
10 those monies shall be invested in the classes of securities legal
11 for investment of public monies of this state. Provided further,
12 the investment shall at all times be so made that all assets of the
13 OESC Administrative Fund shall always be readily convertible into
14 cash when needed for any expenditure authorized in Section 5 of this
15 act.

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

19 A. 1. For any tax year beginning after December 31, 2010, each
20 employer subject to the provisions of Sections 3-103, 3-109 and 3-
21 110 of Title 40 of the Oklahoma Statutes shall be required to pay an
22 OESC Administrative Fund assessment equal to six percent (6%) of the
23 unemployment contributions that would be owed to the Oklahoma

1 Employment Security Commission before any rate reduction is made
2 pursuant to Section 3 of this act. This assessment shall be in
3 addition to any contribution which that employer is required to make
4 pursuant to the provisions of the Employment Security Act of 1980.

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

10 B. Employers assigned a tax rate pursuant to Sections 3-103 and
11 3-110 of Title 40 of the Oklahoma Statutes shall pay an OESC
12 Administrative Fund assessment equal to the rate reduction granted
13 them pursuant to Section 3 of this act.

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

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

21 E. The assessment shall be made and collected by the Oklahoma
22 Employment Security Commission for deposit, on a quarterly basis, to
23 the credit of the OESC Administrative Fund. Provided, all monies

1 received by the Oklahoma Employment Security Commission for the
2 account of the OESC Administrative Fund, upon receipt, shall be
3 deposited in a clearance account in a financial institution located
4 in this state.

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

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

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

21 The Oklahoma Employment Security Commission shall adopt and
22 implement an agency wide performance improvement program. The
23 performance improvement program will ensure that all agency

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

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

17 If the Oklahoma Legislature makes an appropriation of money from
18 a Reed Act distribution received pursuant to 42 U.S.C. Section 1103,
19 then the amount allowed to be withdrawn from the OESC Administrative
20 Fund pursuant to subsection B of Section 5 of this act in a given
21 calendar year, shall be reduced by the amount of funds drawn down
22 from the Reed Act appropriation by the Oklahoma Employment Security

1 Commission for the payment of administrative expenses in that same
2 calendar year.

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

4 COMMITTEE REPORT BY: COMMITTEE ON APPROPRIATIONS, dated 2-18-09 - DO
5 PASS, As Amended.