

## CHAPTER 409

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**LABOR AND INDUSTRY**

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SENATE BILL 09-076

BY SENATOR(S) Heath, Schwartz, Boyd, Foster, Hodge, Morse, Newell, Shaffer B.;  
also REPRESENTATIVE(S) Court, Frangas, Green, Ryden, Todd.

**AN ACT**

**CONCERNING THE APPROPRIATION OF EMPLOYER TAX SURCHARGE MONEYS TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND FOR USE BY THE DIVISION OF EMPLOYMENT AND TRAINING WITHIN THE DEPARTMENT OF LABOR AND EMPLOYMENT.**

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

**SECTION 1.** 8-76-102 (4) (a), (4) (b), and (4) (d), Colorado Revised Statutes, are amended to read:

**8-76-102. Rate of tax - surcharge.** (4) (a) ~~Based on the amount of benefits paid and not chargeable to any active employer account prior to each July 1, beginning July 1, 1983, the division shall annually establish a tax, rounded to the nearest one-tenth of one percent. The total amount of benefits not effectively charged shall be divided by the total taxable payroll estimated to be paid by all employers in the ensuing calendar year. The resulting percentage, rounded to the nearest one-tenth of one percent, with fifty percent allocated to the unemployment compensation fund and fifty percent allocated to the employment support fund created under the provisions of section 8-77-109, shall be the surcharge tax rate beginning July 1, 1999. The surcharge tax rate shall then be added to the employer's standard or computed tax rate with eighty percent of the surcharge tax revenues considered as revenues for purposes of calculating the tax surcharge pursuant to this paragraph (a). This tax rate added to the employer tax rate shall also be identified separately on the employer tax rate notice as the tax surcharge for benefits not effectively charged. The combined rate shall be the employer's tax rate for the ensuing calendar year. The division shall use the four quarters most recently available for benefits not effectively charged prior to the computation date used for determinations under section 8-76-103. Since total taxable payroll is estimated and the tax rate rounded, any amount for the benefits not effectively charged and not fully recovered in one year shall be added to the following calendar year's identified amount. Any amount~~

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

recovered over that amount shall be subtracted from the following calendar year's identified amount. The tax surcharge established by this subsection (4) shall not be assessed against any employer whose benefit-charge account balance is zero, and the estimated taxable payrolls of such employers shall not be included in the calculation of the surcharge tax rate, except that, if the employer is still being rated under the provisions of section 8-76-103 (3) (a), such employer is subject to the surcharge tax rate.

(b) Effective July 1, 1999, and until such time as employers' federal unemployment taxes are returned to the state by the federal government at levels sufficient to permit the effective administration of the provisions of articles 70 to 82 of this title, fifty percent of the surcharge tax established by paragraph (a) of this subsection (4) shall be segregated and deposited in the employment support fund created in section 8-77-109.

(d) Effective calendar year 2000, the provisions of paragraph (a) of this subsection (4) regarding annual computation of the surcharge tax rate shall no longer apply and 2009, the annual surcharge tax rate shall be established at 0.22 percent, with fifty THIRTY percent of the surcharge tax rate allocated to the general UNEMPLOYMENT COMPENSATION fund and CREATED IN SECTION 8-77-101, fifty percent of the surcharge tax rate allocated to the employment support fund created under the provisions of section 8-77-109, except that, beginning July 1, 2004, the amount allocated to the general fund shall be allocated to the unemployment compensation fund AND TWENTY PERCENT OF THE SURCHARGE ALLOCATED TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND CREATED IN SECTION 8-77-109. EFFECTIVE JANUARY 1, 2017, FIFTY PERCENT OF THE SURCHARGE TAX RATE SHALL BE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND AND FIFTY PERCENT OF THE SURCHARGE TAX RATE SHALL BE ALLOCATED TO THE EMPLOYMENT SUPPORT FUND. The surcharge tax rate shall then be added to the employer's standard or computed tax rate. This tax rate added to the employer tax rate shall also be identified separately on the employer tax rate notice as the tax surcharge for benefits not effectively charged. The combined rate shall be the employer's tax rate for the ensuing calendar year. The surcharge established by this subsection (4) shall not be assessed against any employer whose benefit-charge account balance is zero; except that, if the employer is still being rated under the provisions of section 8-76-103 (3) (a), such employer is subject to the surcharge tax rate.

**SECTION 2.** 8-77-109 (1), Colorado Revised Statutes, is amended to read:

**8-77-109. Employment support fund - employment and training technology fund - created - uses.** (1) There is hereby established the employment support fund, which shall be credited with fifty percent of the surcharge tax established by section ~~8-76-102 (4) (a)~~ 8-76-102 (4) (d) beginning July 1, 1999.

**SECTION 3.** 8-77-109 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

**8-77-109. Employment support fund - employment and training technology fund - created - uses.** (2) (a.9) NOTWITHSTANDING ANY PROVISION OF THIS SUBSECTION (2) TO THE CONTRARY, BEGINNING JULY 1, 2009, THROUGH DECEMBER 31, 2016, TWENTY PERCENT OF THE SURCHARGE TAX ESTABLISHED BY SECTION

8-76-102(4) SHALL BE CREDITED TO THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE USED FOR EMPLOYMENT AND TRAINING AUTOMATION INITIATIVES ESTABLISHED BY THE DIRECTOR OF THE DIVISION. MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE SUBJECT TO ANNUAL APPROPRIATION BY THE GENERAL ASSEMBLY FOR THE IMPLEMENTATION OF THIS PARAGRAPH (a.9) AND SHALL NOT REVERT TO THE GENERAL FUND OR ANY OTHER FUND AT THE END OF ANY FISCAL YEAR. THE MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE EXEMPT FROM SECTION 24-75-402, C.R.S. IF THE BALANCE OF THE UNEMPLOYMENT COMPENSATION FUND, CREATED IN SECTION 8-77-101, FALLS BELOW TWENTY-FIVE MILLION DOLLARS, THE MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND SHALL BE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND. AT ANY OTHER TIME, THE MONEYS IN THE EMPLOYMENT AND TRAINING TECHNOLOGY FUND MAY BE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND AT THE DISCRETION OF THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LABOR AND EMPLOYMENT.

**SECTION 4. Effective date.** This act shall take effect July 1, 2009.

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

Approved: June 2, 2009