

CHAPTER 246

**LABOR AND INDUSTRY**

SENATE BILL 99-228

BY SENATORS Owen, Anderson, Hillman, Lacy, Tanner, and Weddig;  
also REPRESENTATIVES Dean, Hagedorn, Leyba, May, T. Williams, and Young.

**AN ACT**

CONCERNING THE ALLOCATION OF MONEYS TO THE EMPLOYMENT SUPPORT FUND.

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

**SECTION 1.** 8-76-102 (4), Colorado Revised Statutes, is 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 ~~eighty~~ FIFTY percent allocated to the unemployment compensation fund and ~~twenty~~ FIFTY percent allocated to the employment support fund created under the provisions of section 8-77-109, shall be the surcharge tax rate ~~which~~ BEGINNING JULY 1, 1999. THE SURCHARGE TAX RATE shall then be added to the employer's standard or computed tax rate ~~except that, for one calendar year beginning January 1, 1996, and ending December 31, 1996, the surcharge tax rate allocated to the unemployment compensation fund shall be seventy percent and the surcharge tax rate allocated to the employment support fund shall be thirty percent~~ 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

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

benefits not effectively charged and not fully recovered in one year shall be added to the following calendar year's identified amount. Any amount 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 calendar year 1990 through calendar year 2002, or~~ 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, ~~whichever first occurs, twenty~~ 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. ~~except that, for one calendar year beginning January 1, 1996, and ending December 31, 1996, the employment support fund shall be credited with thirty percent of the said surcharge tax.~~

(c) Effective January 1, 1998, the TAX surcharge established by this subsection (4) shall not be assessed against any employer whose benefit-charge account balance for the last three fiscal years immediately preceding the computation date is less than one hundred dollars.

(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 THE ANNUAL SURCHARGE TAX RATE SHALL BE ESTABLISHED AT 0.22 PERCENT, WITH FIFTY PERCENT OF THE SURCHARGE TAX RATE ALLOCATED TO THE UNEMPLOYMENT COMPENSATION FUND AND FIFTY PERCENT OF THE SURCHARGE TAX RATE ALLOCATED TO THE EMPLOYMENT FUND CREATED UNDER THE PROVISIONS OF SECTION 8-77-109. 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 TAXRATE NOTICE AS THE TAX SURCHARGE FOR BENEFITS NOT EFFECTIVELY CHARGED. THE COMBINED RATE SHALL BE THE EMPLOYER'S TAX RATE FOR THE ENSUING CALENDAR YEARS. 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), (2), and (3), Colorado Revised Statutes, are amended to read:

**8-77-109. Employment support fund - created.** (1) There is hereby established the employment support fund which shall be credited with ~~twenty~~ FIFTY percent of the surcharge tax established by section 8-76-102 (4) (a) ~~except that, for one calendar year beginning January 1, 1996, and ending December 31, 1996, the employment support fund shall be credited with thirty percent of the said surcharge tax~~ BEGINNING JULY 1, 1999.

(2) Moneys collected pursuant to this section shall be credited by the state treasurer to the employment support fund, created in subsection (1) of this section. Moneys in the employment support fund shall be annually appropriated by the general assembly to the division to be used to offset funding deficits for program administration, INCLUDING INFORMATION TECHNOLOGY INITIATIVES, under the provisions of articles 70 to 82 of this title, and to further support programs to strengthen unemployment fund solvency. The moneys in the employment support fund shall not revert to the general fund at the end of any fiscal year ~~except that~~ AND any unobligated amounts remaining in the fund at the end of any fiscal year shall be ~~transferred by the state treasurer to the unemployment compensation fund, created pursuant to section 8-77-101~~ RETAINED IN THE EMPLOYMENT SUPPORT FUND FOR PURPOSES OF THIS SUBSECTION (2) BEGINNING WITH THE FISCAL YEAR ENDING ON JUNE 30, 1999.

(3) ~~If an appropriation is made for distribution of moneys pursuant to the "Reed Act", P.L. 83-567, the department shall reduce the funds available to the employment support fund by an amount equal to the funds so appropriated.~~

**SECTION 3. 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: May 28, 1999