

SECOND REGULAR SESSION

HOUSE BILL NO. 1632

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES POLLOCK (Sponsor), WELLS, THOMSON, SCHAD,
FISHER (125), WILSON (130) AND BROWN (149) (Co-sponsors).

4084L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 288.290, RSMo, and to enact in lieu thereof one new section relating to the unemployment compensation fund.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 288.290, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 288.290, to read as follows:

288.290. 1. There is hereby established as a special fund, separate and apart from all public moneys or funds of this state, an "Unemployment Compensation Fund", which shall be administered by the division exclusively for the purposes of this law. This fund shall consist of:

- (1) All contributions and payments in lieu of contributions collected under this law;
- (2) Interest earned upon any moneys in the fund;
- (3) Any property or securities acquired through the use of moneys belonging to the fund;
- (4) All earnings of such property or securities;
- (5) All voluntary contributions permitted under the law; [and]
- (6) **All revenues derived from the income tax levied on any unemployment compensation under chapter 143;**

- (7) All funds set aside or appropriated by the Congress of the United States or any federal agency, to be deposited to the fund. All moneys in the funds shall be mingled and undivided, except that all money credited to this state's account in the Unemployment Trust Fund pursuant to Section 903 of the Social Security Act, as amended, and which has been appropriated for expenses of administration, shall be used only for the purposes set out in subsection 5 of this

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 section and shall not be included in the cash balance in the unemployment compensation fund
17 for the purposes of sections 288.100 and 288.113 to 288.126.

18 2. The director shall designate a treasurer and custodian of the fund and he or she shall
19 administer the fund and shall issue his or her warrants upon it in accordance with such
20 regulations as the director shall prescribe. He or she shall maintain within the fund three separate
21 accounts:

22 (1) A clearing account;

23 (2) An unemployment trust fund account; and

24 (3) A benefit account. To ensure that unemployment compensation trust fund moneys
25 are utilized only for the purpose authorized, no other fund shall be established with increased
26 employer taxes that are offset by a reduction of unemployment contributions, except for the
27 special employment security fund created in section 288.310.

28 3. All moneys payable to the fund, upon their receipt by the division, shall immediately
29 be deposited in the clearing account. Refunds of contributions or payments made necessary
30 under the provisions of sections 288.140 and 288.340 may be paid from the clearing account or
31 the benefit account. After clearance, all moneys in the clearing account shall be immediately
32 deposited with the Secretary of the Treasury of the United States of America to the credit of the
33 account of this state in the Unemployment Trust Fund, established and maintained pursuant to
34 Section 904 of the Social Security Act, as amended, any provisions of law in this state relating
35 to the deposit, administration, release, or disbursement of state moneys in the possession or
36 custody of the state treasurer to the contrary notwithstanding. The benefit account shall consist
37 of all moneys requisitioned from the Missouri account in the federal Unemployment Trust Fund.
38 Except as otherwise provided, moneys in the clearing and benefit accounts may be deposited in
39 any bank or public depository in which general funds of the state may be deposited, but no public
40 deposit insurance charge or premium shall be paid out of the fund. Moneys in the clearing and
41 benefit accounts shall not be commingled with other state funds but shall be maintained in
42 separate accounts on the books of the depository bank. All funds required by this law to be
43 deposited in any state depository shall be secured by such depository to the same extent and in
44 the same manner as is or may hereafter be required by section 30.270, RSMo, and all the
45 amendments thereto; provided, that the division shall do those acts directed to be done by the
46 governor, attorney general and state treasurer, or any of them, under section 30.270, RSMo,
47 which are not inconsistent with the other provisions of this law. Collateral pledged for this
48 purpose shall be kept separate and distinct from any collateral pledged to secure other funds of
49 the state, or, if combined, shall be first used to satisfy and make whole the accounts herein
50 established. The treasurer shall give a separate bond conditioned upon the faithful performance
51 of his or her duties as custodian of the fund in an amount not to exceed twenty-five thousand

52 dollars and in the form prescribed by law or approved by the attorney general. Premiums for
53 such bonds shall be paid from the administration fund. All sums recovered for losses sustained
54 by the fund shall be deposited therein.

55 4. Moneys shall be requisitioned from the Missouri account in the federal
56 Unemployment Trust Fund solely for the payment of benefits or for refunds of contributions or
57 payments in lieu of contributions in accordance with regulations prescribed by the director,
58 except that money credited to this state's account pursuant to Section 903 of the Social Security
59 Act, as amended, shall be used exclusively as provided in subsection 5 of this section. The
60 director shall from time to time requisition from the federal Unemployment Trust Fund such
61 amounts, not exceeding the amounts standing to the Missouri account therein, as he or she deems
62 necessary for the payment of benefits and refunds for a reasonable future period. Upon its
63 receipt the treasurer shall deposit such money in the benefit account and shall issue his or her
64 warrants for the payment of benefits solely from such benefit account. Expenditures of such
65 moneys in the benefit account and refunds from the clearing account shall not be subject to any
66 provisions of law requiring specific appropriations or other formal release by state officers of
67 moneys belonging to this state in their custody. All warrants issued by the treasurer for the
68 payment of benefits and refunds shall bear the signature of the treasurer and the countersignature
69 of the director or other duly authorized division representative. Any balance of moneys
70 requisitioned from the federal Unemployment Trust Fund which remains unclaimed or unpaid
71 in the benefit account after the expiration of the period for which such sums were requisitioned
72 shall either be deducted from estimates for, and may be utilized for the payment of, benefits
73 during succeeding periods, or, in the discretion of the director, shall be redeposited with the
74 Secretary of the Treasury of the United States of America to the credit of the Missouri account
75 in the federal Unemployment Trust Fund as provided in subsection 3 of this section.

76 5. (1) Money credited to the account of this state in the Unemployment Trust Fund by
77 the Secretary of the Treasury of the United States of America pursuant to Section 903 of the
78 Social Security Act, as amended, may be requisitioned and used for the payment of expenses
79 incurred for the administration of this law pursuant to a specific appropriation by the legislature,
80 provided that the expenses are incurred and the money is requisitioned as needed after the
81 enactment of an appropriation law which:

82 (a) Specifies the purpose for which such money is appropriated and the amounts
83 appropriated therefor;

84 (b) Limits the period within which such money may be obligated to a period ending not
85 more than two years after the date of the enactment of the appropriation law; and

86 (c) Limits the amount which may be obligated during a twelve-month period beginning
87 on July first and ending on the next June thirtieth to an amount which does not exceed the

88 amount by which the aggregate of the amount transferred to the account of this state in the
89 Unemployment Trust Fund pursuant to subsections (a) and (b) of Section 903 of the Social
90 Security Act, as amended, exceeds the aggregate of the amounts used by this state pursuant to
91 this subsection and charged against the amounts transferred to the account of this state in the
92 Unemployment Trust Fund.

93 (2) The use of the money referred to in subdivision (1) of this subsection shall be
94 accounted for in accordance with standards established by the Secretary of Labor.

95 (3) For purposes of subdivision (1) of this subsection, amounts used by this state for
96 administration shall be chargeable against transferred amounts at the exact time the obligation
97 is entered into.

98 (4) Money credited to the account of this state pursuant to Section 903 of the Social
99 Security Act, as amended, may not be withdrawn or used except for the payment of benefits and
100 for the payment of expenses for the administration of this law and of public employment offices
101 pursuant to this subsection.

102 (5) Money appropriated as provided under subdivision (1) of this subsection for the
103 payment of expenses of administration shall be requisitioned as needed for the payment of
104 obligations incurred under such appropriation and, upon requisition, shall be deposited in the
105 unemployment compensation administration fund from which such payments shall be made.
106 Money so deposited shall, until expended, remain a part of the unemployment compensation
107 fund and, if it will not be expended, shall be returned promptly to the account of this state in the
108 Unemployment Trust Fund.

109 (6) Money credited to the account of the state in the federal Unemployment Trust Fund
110 by the Secretary of the Treasury of the United States of America pursuant to Title 42, Section
111 903 of the Social Security Act with respect to the federal fiscal years 1999, 2000 and 2001, shall
112 be used solely for the administration of the unemployment compensation program.

113 6. The provisions of subsections 1, 2, 3, 4, and 5 of this section, to the extent that they
114 relate to the federal Unemployment Trust Fund, shall be operative only so long as such federal
115 Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the
116 United States of America continues to maintain a separate book account of all funds deposited
117 therein by contributions from employers of this state for benefit purposes, and by money credited
118 pursuant to Section 903 of the Social Security Act, as amended, together with a proportionate
119 share of the earnings apportioned to the Missouri account of such federal Unemployment Trust
120 Fund, from which no other state is permitted to make or authorize withdrawals. If and when
121 such Unemployment Trust Fund ceases to exist, or such separate book account is no longer
122 maintained, all moneys, properties, or securities therein belonging to the unemployment
123 compensation fund of this state shall be transferred to the treasurer of the unemployment

124 compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys,
125 properties or securities in a manner approved by the director in accordance with the provisions
126 of this law; provided, that such moneys shall be invested in the following readily marketable
127 classes of securities: bonds or other interest-bearing obligations of the United States of America,
128 or securities on which the payment of principal and interest are guaranteed by the United States
129 of America, and bonds or other interest-bearing obligations of the state of Missouri; and
130 provided, further, that such investments shall at all times be so made that all the assets of the
131 fund shall always be readily convertible into cash when needed for the payment of benefits. The
132 treasurer shall dispose of securities or other properties belonging to the unemployment
133 compensation fund only under the direction of the director.

134 7. Notwithstanding any other provision of this law, any interest or penalties found to
135 have been erroneously collected and which is ordered to be refunded shall, if paid into the
136 unemployment compensation fund, be refunded out of the unemployment compensation fund
137 and, if paid into the special employment security fund, shall be refunded out of the special
138 employment security fund; except that, in the event any interest and penalties paid into the
139 unemployment compensation fund shall be transferred to the special employment security fund,
140 the refund of any such interest and penalties shall be made from the special employment security
141 fund.

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