

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1441

96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE FISHER.

5000L.01P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To repeal sections 287.450, 287.460, 287.520, 287.650, 287.655, 288.036, 288.055, 288.121, 288.128, 288.130, 288.160, 288.170, and 288.250, RSMo, and to enact in lieu thereof thirteen new sections relating to employment law, with penalty provisions.

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

Section A. Sections 287.450, 287.460, 287.520, 287.650, 287.655, 288.036, 288.055, 288.121, 288.128, 288.130, 288.160, 288.170, and 288.250, RSMo, are repealed and thirteen new sections enacted in lieu thereof, to be known as sections 287.450, 287.460, 287.520, 287.650, 287.655, 288.036, 288.055, 288.121, 288.128, 288.130, 288.160, 288.170, and 288.250, to read as follows:

287.450. If the employer and employee or his dependents do not agree in regard to compensation payable under this chapter, either party may make application **in a manner determined by the division** for a hearing in regard to the matters at issue and for a ruling thereon, except that no application for a hearing shall be considered until fourteen days after the receipt by the division of the report of accident required under section 287.380. The fourteen-day waiting period is not applicable to applications for hardship hearings. After the application has been received, the division shall set a date for a hearing, which shall be held as soon as practicable, and shall notify the interested parties of the time and place of the hearing.

287.460. 1. The division, through an administrative law judge, shall hear in a summary proceeding the parties at issue and their representatives and witnesses and shall determine the dispute by issuing the written award within ninety days of the last day of the hearing. The

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.

4 hearing shall be concluded within thirty days of the date of commencement of the hearing, except  
5 in extraordinary circumstances where a lengthy trial or complex issues necessitate a longer time  
6 than ninety days. All evidence introduced at any such hearings shall be reported by a competent  
7 reporter appointed by the division or be recorded by electronic means. The award, together with  
8 a statement of the findings of fact, rulings of law and any other matters pertinent to the question  
9 at issue, shall be filed with the record of proceedings, and a copy of the award shall immediately  
10 be sent by **electronic means or in the case of an unrepresented employee, by United States**  
11 mail, to the parties in dispute and the employer's insurer.

12 2. The division of workers' compensation shall develop by rule procedures whereby  
13 mediation services are provided to the parties in a claim for workers' compensation benefits  
14 whereby claims may be mediated by the parties at a prehearing conference when the division  
15 determines that a claim may be settled or upon application for a mediation settlement conference  
16 filed by either party.

17 3. The division may require the parties to produce at the mediation conference all  
18 available medical records and reports. Such mediation conference shall be informal to ascertain  
19 the issues and attempt to resolve the claim or other pending issues. Such mediation conference  
20 may be set at any time prior to the commencement of the evidentiary hearing and nothing in this  
21 section shall be interpreted to delay the setting of the matter for hearing. Upon the request of any  
22 party, a person providing mediation settlement services shall be disqualified from conducting any  
23 evidentiary hearing relating to the claim without limiting the rights conferred by section 287.810.

287.520. 1. Any notice required under this chapter shall be deemed to have been  
2 properly given and served when sent by registered or certified mail properly stamped and  
3 addressed to the person or entity to whom given, at the last known address in time to reach the  
4 person or entity in due time to act thereon, or to counsel for that person or entity in like manner.  
5 Notice may also be given and served in like manner as summons in civil actions.

6 **2. Notwithstanding the provisions of subsection 1 of this section, the division may**  
7 **serve or send any notices required under this chapter by electronic means, except that any**  
8 **notices required to be sent to an employee not represented by counsel shall be sent by**  
9 **registered or certified mail to the last known address of the employee unless the employee**  
10 **consents to receive notices by electronic means. In the event the employee is represented**  
11 **by counsel and counsel is sent proper notice under this chapter, notice to the employee may**  
12 **be sent by regular mail.**

287.650. 1. The division of workers' compensation shall have such powers as may be  
2 necessary to carry out all the provisions of this chapter **including the use of electronic**  
3 **processes**, and it may make such rules and regulations as may be necessary for any such purpose,  
4 subject to the approval of the labor and industrial relations commission of Missouri. The

5 division shall have power to strike pleadings and enter awards against any party or parties who  
6 fail or refuse to comply with its lawful orders.

7         2. (1) The division shall have the power upon the expiration of five years after their  
8 receipt to destroy reports of injuries on which no compensation (exclusive of medical costs) was  
9 due or paid, together with the papers attendant to the filing of such reports, and also to destroy  
10 records in compensable cases after the expiration of ten years from the date of the termination  
11 of compensation.

12         (2) Records in cases that are submitted for hearing in the division shall include all  
13 documentary exhibits admitted as evidence at the hearing. Records in all other cases shall  
14 include all documents required to be filed with the division by this chapter or by rule of the  
15 division, medical reports or records which are relied upon by the administrative law judge or  
16 legal advisor in approving the compromise lump sum settlement, and copies of the compromise  
17 lump sum settlement. These records shall be kept and stored by the division for a minimum of  
18 ten years and shall include the originals or duplicate originals stored by electronic or other means  
19 approved by the division.

20         3. No rule or portion of a rule promulgated under the authority of this section shall  
21 become effective unless it has been promulgated pursuant to the provisions of section 536.024.

287.655. Any claim before the division may be dismissed for failure to prosecute in  
2 accordance with rules and regulations promulgated by the commission. **Such notice shall be**  
3 **made in a manner determined by the division**, except **that for the employee** such notice  
4 [need not] **shall** be by certified or registered mail [if] **unless** the [person or entity] **employee** to  
5 whom notice is directed is represented by counsel and counsel is also given such notice [at  
6 counsel's last known address]. To dismiss a claim the administrative law judge shall enter an  
7 order of dismissal which shall be deemed an award and subject to review and appeal in the same  
8 manner as provided for other awards in this chapter.

288.036. 1. "Wages" means all remuneration, payable or paid, for personal services  
2 including commissions and bonuses and, except as provided in subdivision (7) of this section,  
3 the cash value of all remuneration paid in any medium other than cash. Gratuities, including tips  
4 received from persons other than the employing unit, shall be considered wages only if required  
5 to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C. Sec. 3306,  
6 and shall be, for the purposes of this chapter, treated as having been paid by the employing unit.  
7 Severance pay shall be considered as wages to the extent required pursuant to the Federal  
8 Unemployment Tax Act, 26 U.S.C. Section 3306(b). Vacation pay and holiday pay shall be  
9 considered as wages for the week with respect to which it is payable. The term "wages" shall  
10 not include:

11 (1) The amount of any payment made (including any amount paid by an employing unit  
12 for insurance or annuities, or into a fund, to provide for any such payment) to, or on behalf of,  
13 an individual under a plan or system established by an employing unit which makes provision  
14 generally for individuals performing services for it or for a class or classes of such individuals,  
15 on account of:

16 (a) Sickness or accident disability, but in case of payments made to an employee or any  
17 of the employee's dependents this paragraph shall exclude from the term wages only payments  
18 which are received pursuant to a workers' compensation law; or

19 (b) Medical and hospitalization expenses in connection with sickness or accident  
20 disability; or

21 (c) Death;

22 (2) The amount of any payment on account of sickness or accident disability, or medical  
23 or hospitalization expenses in connection with sickness or accident disability, made by an  
24 employing unit to, or on behalf of, an individual performing services for it after the expiration  
25 of six calendar months following the last calendar month in which the individual performed  
26 services for such employing unit;

27 (3) The amount of any payment made by an employing unit to, or on behalf of, an  
28 individual performing services for it or his or her beneficiary:

29 (a) From or to a trust described in 26 U.S.C. 401(a) which is exempt from tax pursuant  
30 to 26 U.S.C. 501(a) at the time of such payment unless such payment is made to an employee  
31 of the trust as remuneration for services rendered as such an employee and not as a beneficiary  
32 of the trust; or

33 (b) Under or to an annuity plan which, at the time of such payments, meets the  
34 requirements of Section 404(a)(2) of the Federal Internal Revenue Code (26 U.S.C.A. Sec. 404);

35 (4) The amount of any payment made by an employing unit (without deduction from the  
36 remuneration of the individual in employment) of the tax imposed pursuant to Section 3101 of  
37 the Federal Internal Revenue Code (26 U.S.C.A. Sec. 3101) upon an individual with respect to  
38 remuneration paid to an employee for domestic service in a private home or for agricultural  
39 labor;

40 (5) Remuneration paid in any medium other than cash to an individual for services not  
41 in the course of the employing unit's trade or business;

42 (6) Remuneration paid in the form of meals provided to an individual in the service of  
43 an employing unit where such remuneration is furnished on the employer's premises and at the  
44 employer's convenience, except that remuneration in the form of meals that is considered wages  
45 and required to be reported as wages pursuant to the Federal Unemployment Tax Act, 26 U.S.C.  
46 Sec. 3306 shall be reported as wages as required thereunder;

47 (7) For the purpose of determining wages paid for agricultural labor as defined in  
48 paragraph (b) of subdivision (1) of subsection 12 of section 288.034 and for domestic service as  
49 defined in subsection 13 of section 288.034, only cash wages paid shall be considered;

50 (8) Beginning on October 1, 1996, any payment to, or on behalf of, an employee or the  
51 employee's beneficiary under a cafeteria plan, if such payment would not be treated as wages  
52 pursuant to the Federal Unemployment Tax Act.

53 2. The increases or decreases to the state taxable wage base for the remainder of calendar  
54 year 2004 shall be eight thousand dollars, and the state taxable wage base in calendar year 2005,  
55 and each calendar year thereafter, shall be determined by the provisions within this subsection.  
56 On January 1, 2005, the state taxable wage base for calendar year 2005, 2006, and 2007 shall be  
57 eleven thousand dollars. The taxable wage base for calendar year 2008 shall be twelve thousand  
58 dollars. The state taxable wage base for each calendar year thereafter shall be determined by the  
59 average balance of the unemployment compensation trust fund of the four preceding calendar  
60 quarters (September thirtieth, June thirtieth, March thirty-first, and December thirty-first of the  
61 preceding calendar year), less any outstanding federal Title XII advances received pursuant to  
62 section 288.330, less the principal, interest, and administrative expenses related to any credit  
63 instrument issued under section [288.030] **288.330**, and less the principal, interest, and  
64 administrative expenses related to any financial agreements under subdivision (17) of subsection  
65 2 of section 288.330. When the average balance of the unemployment compensation trust fund  
66 of the four preceding quarters (September thirtieth, June thirtieth, March thirty-first, and  
67 December thirty-first of the preceding calendar year), as so determined is:

68 (1) Less than, or equal to, three hundred fifty million dollars, then the wage base shall  
69 increase by one thousand dollars; or

70 (2) Six hundred fifty million or more, then the state taxable wage base for the subsequent  
71 calendar year shall be decreased by five hundred dollars. In no event, however, shall the state  
72 taxable wage base increase beyond twelve thousand five hundred dollars, or decrease to less than  
73 seven thousand dollars. For calendar year 2009, the tax wage base shall be twelve thousand five  
74 hundred dollars. For calendar year 2010 and each calendar year thereafter, in no event shall the  
75 state taxable wage base increase beyond thirteen thousand dollars, or decrease to less than seven  
76 thousand dollars. For any calendar year, the state taxable wage base shall not be reduced to less  
77 than that part of the remuneration which is subject to a tax under a federal law imposing a tax  
78 against which credit may be taken for contributions required to be paid into a state  
79 unemployment compensation trust fund. Nothing in this section shall be construed to prevent  
80 the wage base from increasing or decreasing by increments of five hundred dollars.

288.055. 1. Notwithstanding any other provision of this chapter, an unemployed  
2 claimant otherwise eligible for benefits shall not become ineligible for benefits because of his

3 enrollment in and satisfactory pursuit of a retraining course of instruction which the director has  
4 approved for the individual.

5         2. An unemployed individual who files a claim for benefits may apply to the division for  
6 a determination of potential eligibility for benefits during a period of retraining or with respect  
7 to a claimant who has not applied for such determination, if the director finds the circumstances  
8 under subdivision (1) of subsection 3 of this section to exist, then the director shall make a  
9 complete determination under subsection 3 of this section, and where potential eligibility is  
10 determined, the director shall require the claimant to take a retraining course of instruction to be  
11 eligible for benefit payments.

12         3. A determination of potential eligibility for benefits under this section and chapter shall  
13 be issued to an unemployed claimant if the director finds that:

14             (1) Reasonable employment opportunities for which the unemployed claimant is fitted  
15 by training and experience do not exist or have substantially diminished in the labor market area  
16 in this state in which he is claiming benefits;

17             (2) The retraining course of instruction relates to an occupation or skill for which there  
18 are, or are expected to be in the immediate future, reasonable employment opportunities in any  
19 labor market area in this state in which the claimant agrees to seek work;

20             (3) The retraining course of instruction is one prescribed by the director;

21             (4) The individual has the required qualifications and aptitudes to complete the course  
22 successfully and profit therefrom; and

23             (5) Upon completion of his retraining course of instruction the individual should be  
24 qualified to use the skills acquired under labor organization rules where applicable to such skills.

25         4. Notwithstanding the provisions of subdivision (2) of section 288.040, an unemployed  
26 claimant who is able to work is eligible to receive benefits under this section and chapter, with  
27 respect to any week during a period of retraining only if the director finds that:

28             (1) He **or she** has been determined potentially eligible under subsection 3 of this section;  
29 and

30             (2) He **or she** submits [with each claim] **quarterly** a written certification executed by  
31 a responsible person connected with the retraining program certifying that he **or she** was enrolled  
32 in and satisfactorily pursuing the retraining course of instruction **during each week claimed in**  
33 **such calendar quarter. The quarterly written certification shall be filed within ten days**  
34 **of the end of each calendar quarter (March thirty-first, June thirtieth, September thirtieth,**  
35 **and December thirty-first).**

36         5. If an individual fails to submit [for any week during a period of retraining] the  
37 certification required by subsection 4 of this section, he **or she** shall be ineligible to receive [any]  
38 benefits [for that] **during any week claimed in such calendar quarter. Further, the**

39 **individual shall be ineligible to receive any further benefits under this section until such**  
 40 **time as the certification required by subsection 4 of this section has been received by the**  
 41 **division.** This subsection shall not render a claimant ineligible for benefits for any week during  
 42 a period of retraining if on or before Monday of that week he **or she** notifies the division that his  
 43 **or her** retraining course of instruction has been or is being discontinued or terminated prior to  
 44 that week.

45 6. An unemployed claimant otherwise eligible for benefits under this section and chapter  
 46 shall not be disqualified for refusing suitable employment offered to him **or her**, or failing to  
 47 apply for suitable employment when notified by an employment office, or for leaving his **or her**  
 48 most recent temporary work, accepted during his retraining, if the acceptance of or applying for  
 49 suitable employment or continuing such work would require him **or her** to terminate his  
 50 retraining course of instruction.

51 7. Notwithstanding any other provision of this section, no payment of benefits shall be  
 52 made to any individual for any week or part of any week with respect to which he **or she** is  
 53 entitled to receive training benefits as a result of participation by this state pursuant to the  
 54 provision of any federal law providing for the payment of such benefits unless required by such  
 55 federal law.

56 8. Words and phrases used in this section have the meanings ascribed to them in this  
 57 chapter.

58 9. Notwithstanding any other provision of this section, the director may determine upon  
 59 application of a claimant who is unemployed due to a permanent mass layoff, that such claimant  
 60 is eligible for training, and such claimant shall be eligible to receive benefits under this section  
 61 and chapter if he meets the requirements of subdivision (2) of subsection 4 of this section and  
 62 is otherwise eligible for benefits.

288.121. [1.] On October first of each calendar year, if the average balance, less any  
 2 federal advances, of the unemployment compensation trust fund of the four preceding quarters  
 3 (September thirtieth, June thirtieth, March thirty-first and December thirty-first of the preceding  
 4 calendar year) is less than four hundred fifty million dollars, then each employer's contribution  
 5 rate calculated for the four calendar quarters of the succeeding calendar year shall be increased  
 6 by the percentage determined from the following table:

	Balance in Trust Fund		Percentage
	Less Than	Equals or Exceeds	of Increase
10	\$450,000,000	\$400,000,000	10%
11	\$400,000,000	\$350,000,000	20%
12	\$350,000,000		30%

13 For calendar years 2005, 2006, and 2007, the contribution rate of any employer who is paying  
14 the maximum contribution rate shall be increased by forty percent, instead of thirty percent as  
15 previously indicated in the table in this section.

16 [2. For calendar year 2007 and each year thereafter, an employer's total contribution rate  
17 shall equal the employer's contribution rate plus a temporary debt indebtedness assessment equal  
18 to the amount to be determined in subdivision (6) of subsection 2 of section 288.330 added to  
19 the contribution rate plus the increase authorized under subsection 1 of this section. Any moneys  
20 overcollected beyond the actual administrative, interest and principal repayment costs for the  
21 credit instruments used shall be deposited into the state unemployment insurance trust fund and  
22 credited to the employer's experience account.]

288.128. 1. If the fund is utilizing moneys advanced by the federal government under  
2 the provisions of 42 U.S.C.A., Section 1321, pursuant to section 288.330, each employer may  
3 be assessed an amount solely for the payment of interest due on such federal advancements. The  
4 rate shall be determined by dividing the interest due on federal advancements by ninety-five  
5 percent of the total taxable wages paid by all Missouri employers in the preceding calendar year.  
6 Each employer's proportionate share shall be the product obtained by multiplying such  
7 employer's total taxable wages for the preceding calendar year by the rate specified in this  
8 section. Each employer shall be notified of the amount due under this section by June thirtieth  
9 of each year and such amount shall be considered delinquent thirty days thereafter. The moneys  
10 collected from each employer for the payment of interest due on federal advances shall be  
11 deposited in the special employment security fund.

12 2. If on December thirty-first of any year the money collected under subsection 1 of this  
13 section exceeds the amount of interest due on federal advancements by one hundred thousand  
14 dollars or more, then each employer's experience rating account shall be credited with an amount  
15 which bears the same ratio to the excess moneys collected under this section as that employer's  
16 payment collected under this section bears to the total amount collected under this section.  
17 Further, if on December thirty-first of any year the moneys collected under this section exceed  
18 the amount of interest due on the federal advancements by less than one hundred thousand  
19 dollars, the balance shall be transferred from the special employment security fund to the  
20 Secretary of the Treasury of the United States to be credited to the account of this state in the  
21 unemployment trust fund.

22 3. If the fund is utilizing moneys from the proceeds of credit instruments issued under  
23 section 288.330, or from the moneys advanced under financial agreements under subdivision  
24 (17) of subsection 2 of section 288.330, or a combination of credit instrument proceeds and  
25 moneys advanced under financial agreements each employer may be assessed a credit instrument  
26 and financing agreement repayment surcharge. The total of such surcharge shall be calculated

27 as an amount up to one hundred fifty percent of the amount required in the twelve-month period  
28 following the due date for the payment of such surcharge for the payment of the principal,  
29 interest, and administrative expenses related to such credit instruments, or in the case of financial  
30 agreements for the payment of principal, interest, and administrative expenses related to such  
31 financial agreements, or in the case of a combination of credit instruments and financial  
32 agreements for the payment of principal, interest, and administrative expenses for both. The total  
33 annual surcharge to be collected shall be calculated by the division as a percentage of the total  
34 statewide contributions collected during the previous calendar year. Each employer's  
35 proportionate share shall be the product obtained by multiplying the percentage calculated under  
36 this subsection by each employer's contributions due under this chapter for each filing period  
37 during the preceding calendar year. Each employer shall be notified by the division of the  
38 amount due under this section by April thirtieth of each year and such amount shall be  
39 considered delinquent thirty days thereafter. **Any moneys overcollected beyond the actual**  
40 **administrative, interest, and principal repayment costs for the credit instruments or**  
41 **financial agreements used shall be deposited into the state unemployment insurance trust**  
42 **fund and credited to the employer's experience account.**

288.130. 1. Each employing unit shall keep true and accurate payroll and other related  
2 records, containing such information as the division may by regulation prescribe for a period of  
3 at least three calendar years after the record was made. Such records shall be open to inspection  
4 and be subject to being copied by authorized representatives of the division at any reasonable  
5 time and as often as may be necessary. Any authorized person engaged in administering this law  
6 may require from any employing unit any sworn or unsworn reports, with respect to individuals  
7 performing services for it, which are deemed necessary for the effective administration of this  
8 law.

9 2. All employers [required to report W-2 copy A information on magnetic media tape  
10 to the Social Security Administration pursuant to 26 CFR Section 301.6011-2, or successor  
11 regulations,] **with fifty or more workers** are [likewise] required to report quarterly wage  
12 information due pursuant to section 288.090 to the division [on magnetic tape or diskette in a  
13 format prescribed by the division] **in an electronic format prescribed by the division.**

14 3. Each employer shall post and maintain in places readily accessible to the employer's  
15 workers printed statements concerning benefit rights, claims for benefits and such other matters  
16 related to the administration of this law as the division may by regulation prescribe. Each  
17 employer shall supply to workers copies of any printed statements relating to claims for benefits  
18 when and as the division may by regulation prescribe. Such printed statements and other  
19 materials shall be supplied by the division without cost.

20           4. A deputy shall make an ex parte determination after investigation but without hearing  
21 with respect to any matter pertaining to the liability of an employing unit which does not involve  
22 a claimant. The deputy shall promptly notify any interested employing units of each such  
23 determination and the reason for it. The division shall grant a hearing before an appeals tribunal  
24 to any employing unit appealing from any such ex parte determination provided an appeal is filed  
25 in writing within thirty days following the date of notification or the mailing of such  
26 determination to the party's last known address. In the absence of an appeal any such  
27 determination shall become final at the expiration of a thirty-day period. The deputy may,  
28 however, at any time within a year from the date of the deputy's determination, for good cause,  
29 reconsider the determination and shall promptly notify all interested employing units of his  
30 amended determination and the reason for it.

31           5. The thirty-day period provided in subsection 4 of this section may, for good cause, be  
32 extended.

288.160. 1. If any employer neglects or refuses to make a report as required by this law  
2 the division shall make an estimate based on any information in its possession or that may come  
3 into its possession of the amount of wages paid by such employer for the period in respect to  
4 which the employer failed to make the report, and upon the basis of such estimated amount  
5 compute and assess the contributions and interest payable by such employer, adding to such sum  
6 a penalty as set forth in subsection 2 of this section. Promptly thereafter, the division shall give  
7 to such employer written notice of such estimated contributions, interest and penalties as so  
8 assessed, the notice to be served [personally or] by registered **or certified** mail, directed to the  
9 last known [principal place of business] **address** of such employer [in this state or in any state  
10 in the event the employer has none in this state].

11           2. If any employer neglects or refuses to file any required report by the last day of the  
12 month following the due date there shall be imposed a penalty, equal to the greater of one  
13 hundred dollars or ten percent of the contributions required to be shown on the report, for each  
14 month or fraction thereof during which such failure continues, provided, however, that the  
15 penalty shall not exceed the greater of two hundred dollars or twenty percent of the contributions  
16 in the aggregate.

17           3. In any case in which any contributions, interest or penalties imposed by this law are  
18 not paid when due, it shall be the duty of the division, when the amount of contributions, interest  
19 or penalties is determined, either by the report of the employer or by such investigation as the  
20 division may make, to assess the contributions, interest and penalties so determined against such  
21 employer and to certify the amount of such contributions, interest and penalties and give such  
22 employer written notice, served [personally or] by registered **or certified** mail, directed to the

23 last known address of such employer [in this state or in any state, in the event the employer has  
24 none in this state].

25 4. If fraud or evasion on the part of any employer is discovered by the division, the  
26 division shall determine the amount by which the state has been defrauded, shall add to the  
27 amount so determined a penalty equal to twenty-five percent thereof, and shall assess the same  
28 against the employer. The amount so assessed shall be immediately due and payable; provided,  
29 however, that the division shall promptly thereafter give to such employer written notice of such  
30 assessment.

31 5. Any employer against whom an assessment is made pursuant to the provisions of  
32 subsections 1, 2, 3 and 4 of this section may petition for reassessment. The petition for such  
33 reassessment shall be filed with the division during the thirty-day period following the [day of  
34 service or] mailing of the notice of such assessment. In the absence of the filing of such a  
35 petition for reassessment the assessment shall become final upon the expiration of such a  
36 thirty-day period. Each such petition for reassessment shall set forth specifically and in detail  
37 the grounds upon which it is claimed the assessment is erroneous.

38 6. (1) In any case in which any contributions, interest or penalties imposed by law are  
39 not paid when due, the notice of the assessment of such contributions, interest and penalties shall  
40 be served [upon or mailed] **by registered or certified mail to the last known address of such**  
41 employer within three years of the date upon which the payment of the contributions was due  
42 except that in any case of fraud or misrepresentation on the part of the employer, the notice of  
43 the assessment of the contributions, interest and penalties may be served upon or mailed to the  
44 employer at any time.

45 (2) The giving of the notice of the making of the assessment shall toll any statute of  
46 limitations on the collection of any contributions, interest and penalties assessed.

47 (3) In the event any employer is entitled to the advantage of the Soldiers' and Sailors'  
48 Civil Relief Act of 1940, or any amendment thereto, prior to the date any assessment becomes  
49 final, such employer shall be permitted to file a petition for reassessment at any time within  
50 ninety days following such employer's discharge from the armed services.

51 (4) The certificate of assessment which, pursuant to the provisions of section 288.170,  
52 may be filed with the clerk of the circuit court shall, upon such filing, thereafter be treated in all  
53 respects as a final judgment of the circuit court against the employer and the general statute of  
54 limitations applying to other judgments of courts of record shall apply.

288.170. 1. In any case in which any contributions, interest or penalties imposed under  
2 this law are not paid when due and the assessment of which has become final, the division may  
3 file for record in the office of the clerk of the circuit court in the county in which the employer  
4 owing said contributions, interest or penalties resides, or has his place of business, or any other

5 county in which he has property, or all of them, a certificate specifying the amount of the  
6 contributions, interest and penalties due and the name of the employer liable for the same and  
7 it shall be the duty of the clerk of the circuit court to file such certificate of record and enter the  
8 same in the record of the circuit court for judgments and decrees under the procedure prescribed  
9 for filing transcripts of judgments. From the time of the filing of such certificate, the amount of  
10 the contributions, interest and penalties specified therein shall have the force and effect of a  
11 judgment of the circuit court until the same is satisfied by the division through its duly  
12 authorized agents. Execution shall be issuable at the request of the division, its agent or attorney  
13 as is provided in the case of other judgments. No exemption shall be allowed from the levy of  
14 an execution issued for such contributions, interest and penalties and no indemnifying bond shall  
15 be required by the sheriff before making levy.

16         2. If any employer defaults in the payment of contributions, interest, or penalties the  
17 amount due shall be collected by civil action in the name of the division. Such suit shall be  
18 brought in the county wherein the employer resides or has a place of business or agent for the  
19 transaction of business in this state or where he or it may be found, and the employer adjudged  
20 in default shall pay the cost of such action. Any civil action brought under this law shall be  
21 heard by the court at the earliest possible date and shall be entitled to preference on the calendar  
22 of the court over all other civil actions except petitions for judicial review under this law and  
23 cases arising under the workmen's compensation law of this state. If any employer shall fail to  
24 resort to the remedy herein provided for reassessment of any contributions, interest or penalties  
25 within the time as provided herein, such employer shall thereafter be precluded from asserting  
26 any defense in a direct suit for the collection of the contributions.

27         3. **In any case in which any assessment of contributions, interest, or penalties**  
28 **imposed under this law are not paid when due and the assessment of which has become**  
29 **final, the division may file for record in the recorder's office of any county in which the**  
30 **employer owing such contributions, interest, or penalties resides, owns property, or has a**  
31 **place of business a certificate of lien specifying the amount of the contributions, interest,**  
32 **or penalties due and the name of the employer liable for the same. It shall be the duty of**  
33 **the recorder to file such certificate of record and enter the same in the record of the county.**  
34 **The lien shall arise on the date such assessment becomes final and shall be continuing and**  
35 **shall attach to real or personal property or interest in real or personal property owned by**  
36 **the employer or acquired in any manner by the employer after the filing of the certificate**  
37 **of lien. Unless sooner released or discharged, the lien shall expire ten years after the**  
38 **certificate of lien was filed unless within such ten-year period the certificate of lien has**  
39 **been refiled by the division with the recorder. Unless sooner released or discharged, a**  
40 **timely refiled certificate of lien shall be treated as if filed on the date of filing of the original**

41 **certificate of lien and shall expire ten years after the refiling. A certificate of lien shall not**  
42 **be refiled more than one time.**

43         **4.** The foregoing remedies shall be cumulative and no action taken shall be construed  
44 as an election on the part of the state or any of its officers to pursue any remedy or action  
45 hereunder to the exclusion of any other remedy or action for which provision is made.

288.250. 1. Information obtained from any employing unit or individual pursuant to the  
2 administration of this law shall be held confidential and shall not be published, further disclosed,  
3 or be open to public inspection in any manner revealing the individual's or employing unit's  
4 identity, but any claimant or employing unit or their authorized representative shall be supplied  
5 with information from the division's records to the extent necessary for the proper preparation  
6 and presentation of any claim for unemployment compensation benefits or protest of employer  
7 liability. Further, upon receipt of a written request from a claimant or his or her authorized  
8 representative, the division shall supply information previously submitted to the division by the  
9 claimant, the claimant's wage history and the claimant's benefit payment history. In addition,  
10 upon receipt of a written request from an authorized representative of an employing unit, the  
11 division shall supply information previously submitted to the division by the employing unit, and  
12 information concerning the payment of benefits from the employer's account and the  
13 unemployment compensation fund, including amounts paid to specific claimants. A state or  
14 federal official or agency may receive disclosures to the extent [required by federal law] **needed**  
15 **to fulfill its official duties.** In the division's discretion, any other party may receive disclosures  
16 to the extent authorized by state and federal law. Any information obtained by the division in  
17 the administration of this law shall be privileged and no individual or type of organization shall  
18 be held liable for slander or libel on account of any such information.

19         **2.** Any person who intentionally discloses or otherwise fails to protect confidential  
20 information in violation of this section shall be guilty of a class A misdemeanor. For a second  
21 or subsequent violation, the person shall be guilty of a class D felony.

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