

SECOND REGULAR SESSION

SENATE BILL NO. 673

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS KEHOE AND WALLINGFORD.

Read 1st time January 8, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

4923S.02I

AN ACT

To repeal sections 288.060 and 288.330, RSMo, and to enact in lieu thereof two new sections relating to employment security.

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

Section A. Sections 288.060 and 288.330, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 288.060 and 288.330, to
3 read as follows:

288.060. 1. All benefits shall be paid through employment offices in
2 accordance with such regulations as the division may prescribe.

3 2. Each eligible insured worker who is totally unemployed in any week
4 shall be paid for such week a sum equal to his or her weekly benefit amount.

5 3. Each eligible insured worker who is partially unemployed in any week
6 shall be paid for such week a partial benefit. Such partial benefit shall be an
7 amount equal to the difference between his or her weekly benefit amount and
8 that part of his or her wages for such week in excess of twenty dollars, and, if
9 such partial benefit amount is not a multiple of one dollar, such amount shall be
10 reduced to the nearest lower full dollar amount. For calendar year 2007 and each
11 year thereafter, such partial benefit shall be an amount equal to the difference
12 between his or her weekly benefit amount and that part of his or her wages for
13 such week in excess of twenty dollars or twenty percent of his or her weekly
14 benefit amount, whichever is greater, and, if such partial benefit amount is not
15 a multiple of one dollar, such amount shall be reduced to the nearest lower full
16 dollar amount. Termination pay, severance pay or pay received by an eligible
17 insured worker who is a member of the organized militia for training or duty
18 authorized by Section 502(a)(1) of Title 32, United States Code, shall not be

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 considered wages for the purpose of this subsection.

20 4. The division shall compute the wage credits for each individual by
21 crediting him or her with the wages paid to him or her for insured work during
22 each quarter of his or her base period or twenty-six times his or her weekly
23 benefit amount, whichever is the lesser. In addition, if a claimant receives wages
24 in the form of termination pay or severance pay and such payment appears in a
25 base period established by the filing of an initial claim, the claimant may, at his
26 or her option, choose to have such payment included in the calendar quarter in
27 which it was paid or choose to have it prorated equally among the quarters
28 comprising the base period of the claim. [The maximum total amount of benefits
29 payable to any insured worker during any benefit year shall not exceed twenty
30 times his or her weekly benefit amount, or thirty-three and one-third percent of
31 his or her wage credits, whichever is the lesser.] For the purpose of this section,
32 wages shall be counted as wage credits for any benefit year, only if such benefit
33 year begins subsequent to the date on which the employing unit by whom such
34 wages were paid has become an employer. The wage credits of an individual
35 earned during the period commencing with the end of a prior base period and
36 ending on the date on which he or she filed an allowed initial claim shall not be
37 available for benefit purposes in a subsequent benefit year unless, in addition
38 thereto, such individual has subsequently earned either wages for insured work
39 in an amount equal to at least five times his or her current weekly benefit
40 amount or wages in an amount equal to at least ten times his or her current
41 weekly benefit amount.

42 5. **The duration of benefits payable to any insured worker during**
43 **any benefit year shall be limited to:**

44 (1) **Twenty weeks if the Missouri average unemployment rate is**
45 **nine percent or higher;**

46 (2) **Nineteen weeks if the Missouri average unemployment rate**
47 **is between eight and one half percent and nine percent;**

48 (3) **Eighteen weeks if the Missouri average unemployment rate**
49 **is eight percent up to and including eight and one half percent;**

50 (4) **Seventeen weeks if the Missouri average unemployment rate**
51 **is between seven and one half percent and eight percent;**

52 (5) **Sixteen weeks if the Missouri average unemployment rate is**
53 **seven percent up to and including seven and one half percent;**

54 (6) **Fifteen weeks if the Missouri average unemployment rate is**

55 **between six and one half percent and seven percent;**

56 **(7) Fourteen weeks if the Missouri average unemployment rate**
57 **is six percent up to and including six and one half percent; and**

58 **(8) Thirteen weeks if the Missouri average unemployment rate**
59 **is below six and one half percent;**

60 **As used in this subsection, the phrase "Missouri average unemployment**
61 **rate" means the average statewide unemployment rate during the three**
62 **months of the most recent third calendar year quarter.**

63 **6.** In the event that benefits are due a deceased person and no petition
64 has been filed for the probate of the will or for the administration of the estate
65 of such person within thirty days after his or her death, the division may by
66 regulation provide for the payment of such benefits to such person or persons as
67 the division finds entitled thereto and every such payment shall be a valid
68 payment to the same extent as if made to the legal representatives of the
69 deceased.

70 **[6.] 7.** The division is authorized to cancel any benefit warrant remaining
71 outstanding and unpaid one year after the date of its issuance and there shall be
72 no liability for the payment of any such benefit warrant thereafter.

73 **[7.] 8.** The division may establish an electronic funds transfer system to
74 transfer directly to claimants' accounts in financial institutions benefits payable
75 to them pursuant to this chapter. To receive benefits by electronic funds transfer,
76 a claimant shall satisfactorily complete a direct deposit application form
77 authorizing the division to deposit benefit payments into a designated checking
78 or savings account. Any electronic funds transfer system created pursuant to this
79 subsection shall be administered in accordance with regulations prescribed by the
80 division.

81 **[8.] 9.** The division may issue a benefit warrant covering more than one
82 week of benefits.

83 **[9.] 10.** Prior to January 1, 2005, the division shall institute procedures
84 including, but not limited to, name, date of birth, and Social Security verification
85 matches for remote claims filing via the use of telephone or the internet in
86 accordance with such regulations as the division shall prescribe. At a minimum,
87 the division shall verify the Social Security number and date of birth when an
88 individual claimant initially files for unemployment insurance benefits. If
89 verification information does not match what is on file in division databases to
90 what the individual is stating, the division shall require the claimant to submit

91 a division-approved form requesting an affidavit of eligibility prior to the payment
92 of additional future benefits. The division of employment security shall
93 cross-check unemployment compensation applicants and recipients with Social
94 Security Administration data maintained by the federal government at least
95 weekly. The division of employment security shall cross-check at least monthly
96 unemployment compensation applicants and recipients with department of
97 revenue drivers license databases.

288.330. 1. Benefits shall be deemed to be due and payable only to the
2 extent that moneys are available to the credit of the unemployment compensation
3 fund and neither the state nor the division shall be liable for any amount in
4 excess of such sums. The governor is authorized to apply for an advance to the
5 state unemployment fund and to accept the responsibility for the repayment of
6 such advance in order to secure to this state and its citizens the advantages
7 available under the provisions of federal law.

8 2. (1) The purpose of this subsection is to provide a method of providing
9 funds for the payment of unemployment benefits or maintaining an adequate fund
10 balance in the unemployment compensation fund, and as an alternative to
11 borrowing or obtaining advances from the federal unemployment trust fund or for
12 refinancing those loans or advances.

13 (2) For the purposes of this subsection, "credit instrument" means any
14 type of borrowing obligation issued under this section, including any bonds,
15 commercial line of credit note, tax anticipation note or similar instrument.

16 (3) (a) There is hereby created for the purposes of implementing the
17 provisions of this subsection a body corporate and politic to be known as the
18 "Board of Unemployment Fund Financing". The powers of the board shall be
19 vested in five board members who shall be the governor, lieutenant governor,
20 attorney general, director of the department of labor, and the commissioner of
21 administration. The board shall have all powers necessary to effectuate its
22 purposes including, without limitation, the power to provide a seal, keep records
23 of its proceedings, and provide for professional services. The governor shall serve
24 as chair, the lieutenant governor shall serve as vice chair, and the commissioner
25 of administration shall serve as secretary. Staff support for the board shall be
26 provided by the commissioner of administration.

27 (b) Notwithstanding the provisions of any other law to the contrary:

28 a. No officer or employee of this state shall be deemed to have forfeited
29 or shall forfeit his or her office or employment by reason of his or her acceptance

30 of an appointment as a board member or for his or her service to the board;

31 b. Board members shall receive no compensation for the performance of
32 their duties under this subsection, but each commissioner shall be reimbursed
33 from the funds of the commission for his or her actual and necessary expenses
34 incurred in carrying out his or her official duties under this subsection.

35 (c) In the event that any of the board members or officers of the board
36 whose signatures or facsimile signatures appear on any credit instrument shall
37 cease to be board members or officers before the delivery of such credit
38 instrument, their signatures or facsimile signatures shall be valid and sufficient
39 for all purposes as if such board members or officers had remained in office until
40 delivery of such credit instrument.

41 (d) Neither the board members executing the credit instruments of the
42 board nor any other board members shall be subject to any personal liability or
43 accountability by reason of the issuance of the credit instruments.

44 (4) The board is authorized, by offering for public negotiated sale, to issue,
45 sell, and deliver credit instruments, bearing interest at a fixed or variable rate
46 as shall be determined by the board, which shall mature no later than ten years
47 after issuance, in the name of the board in an amount determined by the
48 board. Such credit instruments may be issued, sold, and delivered for the
49 purposes set forth in subdivision (1) of this subsection. Such credit instrument
50 may only be issued upon the approval of a resolution authorizing such issuance
51 by a simple majority of the members of the board, with no other proceedings
52 required.

53 (5) The board shall provide for the payment of the principal of the credit
54 instruments, any redemption premiums, the interest on the credit instruments,
55 and the costs attributable to the credit instruments being issued or outstanding
56 as provided in this chapter. Unless the board directs otherwise, the credit
57 instrument shall be repaid in the same time frame and in the same amounts as
58 would be required for loans issued pursuant to 42 U.S.C. Section 1321; however,
59 in no case shall credit instruments be outstanding for more than ten years.

60 (6) The board may irrevocably pledge money received from the credit
61 instrument and financing agreement repayment surcharge under subsection 3 of
62 section 288.128, and other money legally available to it, which is deposited in an
63 account authorized for credit instrument repayment in the special employment
64 security fund, provided that the general assembly has first appropriated moneys
65 received from such surcharge and other moneys deposited in such account for the

66 payment of credit instruments.

67 (7) Credit instruments issued under this section shall not constitute debts
68 of this state or of the board or any agency, political corporation, or political
69 subdivision of this state and are not a pledge of the faith and credit of this state,
70 the board or of any of those governmental entities and shall not constitute an
71 indebtedness within the meaning of any constitutional or statutory limitation
72 upon the incurring of indebtedness. The credit instruments are payable only from
73 revenue provided for under this chapter. The credit instruments shall contain a
74 statement to the effect that:

75 (a) Neither the state nor the board nor any agency, political corporation,
76 or political subdivision of the state shall be obligated to pay the principal or
77 interest on the credit instruments except as provided by this section; and

78 (b) Neither the full faith and credit nor the taxing power of the state nor
79 the board nor any agency, political corporation, or political subdivision of the
80 state is pledged to the payment of the principal, premium, if any, or interest on
81 the credit instruments.

82 (8) The board pledges and agrees with the owners of any credit
83 instruments issued under this section that the state will not limit or alter the
84 rights vested in the board to fulfill the terms of any agreements made with the
85 owners or in any way impair the rights and remedies of the owners until the
86 credit instruments are fully discharged.

87 (9) The board may prescribe the form, details, and incidents of the credit
88 instruments and make such covenants that in its judgment are advisable or
89 necessary to properly secure the payment thereof. If such credit instruments
90 shall be authenticated by the bank or trust company acting as registrar for such
91 by the manual signature of a duly authorized officer or employee thereof, the duly
92 authorized officers of the board executing and attesting such credit instruments
93 may all do so by facsimile signature provided such signatures have been duly
94 filed as provided in the uniform facsimile signature of public officials law,
95 sections 105.273 to 105.278, when duly authorized by resolution of the board, and
96 the provisions of section 108.175 shall not apply to such credit instruments. The
97 board may provide for the flow of funds and the establishment and maintenance
98 of separate accounts within the special employment security fund, including the
99 interest and sinking account, the reserve account, and other necessary accounts,
100 and may make additional covenants with respect to the credit instruments in the
101 documents authorizing the issuance of credit instruments including refunding

102 credit instruments. The resolutions authorizing the issuance of credit
103 instruments may also prohibit the further issuance of credit instruments or other
104 obligations payable from appropriated moneys or may reserve the right to issue
105 additional credit instruments to be payable from appropriated moneys on a parity
106 with or subordinate to the lien and pledge in support of the credit instruments
107 being issued and may contain other provisions and covenants as determined by
108 the board, provided that any terms, provisions or covenants provided in any
109 resolution of the board shall not be inconsistent with the provisions of this
110 section.

111 (10) The board may issue credit instruments to refund all or any part of
112 the outstanding credit instruments issued under this section including matured
113 but unpaid interest. As with other credit instruments issued under this section,
114 such refunding credit instruments may bear interest at a fixed or variable rate
115 as determined by the board.

116 (11) The credit instruments issued by the board, any transaction relating
117 to the credit instruments, and profits made from the sale of the credit
118 instruments are free from taxation by the state or by any municipality, court,
119 special district, or other political subdivision of the state.

120 (12) As determined necessary by the board the proceeds of the credit
121 instruments less the cost of issuance shall be placed in the state's unemployment
122 compensation fund and may be used for the purposes for which that fund may
123 otherwise be used. If those net proceeds are not placed immediately in the
124 unemployment compensation fund they shall be held in the special employment
125 security fund in an account designated for that purpose until they are transferred
126 to the unemployment compensation fund provided that the proceeds of refunding
127 credit instruments may be placed in an escrow account or such other account or
128 instrument as determined necessary by the board.

129 (13) The board may enter into any contract or agreement deemed
130 necessary or desirable to effectuate cost-effective financing hereunder. Such
131 agreements may include credit enhancement, credit support, or interest rate
132 agreements including, but not limited to, arrangements such as municipal bond
133 insurance; surety bonds; tax anticipation notes; liquidity facilities; forward
134 agreements; tender agreements; remarketing agreements; option agreements;
135 interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and
136 purchase agreements. Any fees or costs associated with such agreements shall
137 be deemed administrative expenses for the purposes of calculating the credit

138 instrument and financing agreement repayment surcharge under subsection 3 of
139 section 288.128. The board, with consideration of all other costs being equal,
140 shall give preference to Missouri-headquartered financial institutions, or those
141 out-of-state-based financial institutions with at least one hundred Missouri
142 employees.

143 (14) To the extent this section conflicts with other laws the provisions of
144 this section prevail. This section shall not be subject to the provisions of sections
145 23.250 to 23.298.

146 (15) If the United States Secretary of Labor holds that a provision of this
147 subsection or of any provision related to the levy or use of the credit instrument
148 and financial agreement repayment surcharge does not conform with a federal
149 statute or would result in the loss to the state of any federal funds otherwise
150 available to it the board, in cooperation with the department of labor and
151 industrial relations, may administer this subsection, and other provisions related
152 to the credit instrument and financial agreement repayment surcharge, to
153 conform with the federal statute until the general assembly meets in its next
154 regular session and has an opportunity to amend this subsection or other
155 sections, as applicable.

156 (16) Nothing in this chapter shall be construed to prohibit the officials of
157 the state from borrowing from the government of the United States in order to
158 pay unemployment benefits under subsection 1 of this section or otherwise.

159 (17) (a) As used in this subdivision the term "lender" means any state or
160 national bank.

161 (b) The board is authorized to enter financial agreements with any lender
162 for the purposes set forth in subdivision (1) of this subsection, or to refinance
163 other financial agreements in whole or in part, upon the approval of the simple
164 majority of the members of the board of a resolution authorizing such financial
165 agreements, with no other proceedings required. In no instance shall the
166 outstanding obligation under any financial agreement continue for more than ten
167 years. Repayment of obligations to lenders shall be made from the special
168 employment security fund, section 288.310, subject to appropriation by the
169 general assembly.

170 (c) Financial agreements entered into under this subdivision shall not
171 constitute debts of this state or of the board or any agency, political corporation,
172 or political subdivision of this state and are not a pledge of the faith and credit
173 of this state, the board or of any of those governmental entities and shall not

174 constitute an indebtedness within the meaning of any constitutional or statutory
175 limitation upon the incurring of indebtedness. The financial agreements are
176 payable only from revenue provided for under this chapter. The financial
177 agreements shall contain a statement to the effect that:

178 a. Neither the state nor the board nor any agency, political corporation,
179 or political subdivision of the state shall be obligated to pay the principal or
180 interest on the financial agreements except as provided by this section; and

181 b. Neither the full faith and credit nor the taxing power of the state nor
182 the board nor any agency, political corporation, or political subdivision of the
183 state is pledged to the payment of the principal, premium, if any, or interest on
184 the financial agreements.

185 (d) Neither the board members executing the financial agreements nor
186 any other board members shall be subject to any personal liability or
187 accountability by reason of the execution of such financial agreements.

188 (e) The board may prescribe the form, details and incidents of the
189 financing agreements and make such covenants that in its judgment are
190 advisable or necessary to properly secure the payment thereof provided that any
191 terms, provisions or covenants provided in any such financing agreement shall
192 not be inconsistent with the provisions of this section. If such financing
193 agreements shall be authenticated by the bank or trust company acting as
194 registrar for such by the manual signature of a duly authorized officer or
195 employee thereof, the duly authorized officers of the board executing and
196 attesting such financing agreements may all do so by facsimile signature provided
197 such signatures have been duly filed as provided in the uniform facsimile
198 signature of public officials law, sections 105.273 to 105.278, when duly
199 authorized by resolution of the board and the provisions of section 108.175 shall
200 not apply to such financing agreements.

201 (18) The commission may issue credit instruments to refund all or any
202 part of the outstanding borrowing issued under this section including matured
203 but unpaid interest.

204 (19) The credit instruments issued by the commission, any transaction
205 relating to the credit instruments, and profits made from the issuance of credit
206 are free from taxation by the state or by any municipality, court, special district,
207 or other political subdivision of the state.

208 3. In event of the suspension of this law, any unobligated funds in the
209 unemployment compensation fund, and returned by the United States Treasurer

210 because such Federal Social Security Act is inoperative, shall be held in custody
211 by the treasurer and under supervision of the division until the legislature shall
212 provide for the disposition thereof. In event no disposition is made by the
213 legislature at the next regular meeting subsequent to suspension of said law, then
214 all unobligated funds shall be returned ratably to those who contributed thereto.

215 4. For purposes of this section, as contained in senate substitute no. 2 for
216 senate committee substitute for house substitute for house committee substitute
217 for house bill nos. 1268 and 1211, ninety-second general assembly, second regular
218 session, the revisor of statutes shall renumber subdivision (16) of subsection 2 of
219 such section as subdivision (17) of such subsection and renumber subdivision (17)
220 of subsection 2 of such section as subdivision (16) of such subsection.

221 **5. Notwithstanding any other law to the contrary, in the event**
222 **that the amount of moneys owed by the fund for total advancements by**
223 **the federal government exceeds three hundred million dollars, the**
224 **board shall be required to issue, sell, and deliver credit instruments**
225 **pursuant to this section for the entire amount of the debt owed. The**
226 **issuance shall not require any authorization of the board.**

227 **6. If credit instruments are issued under subsection 5 of this**
228 **section, the interest assessment required under section 288.128 shall**
229 **continue to be paid and used to fully finance such instruments and**
230 **shall be paid at the same rate applicable at the time of issuance for all**
231 **subsequent years until the credit instruments are fully financed.**

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