SPONSOR: Rep. Osienski & Sen. Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 236

AN ACT TO AMEND TITLE 19 OF THE DELAWARE CODE RELATING TO EMPLOYER ASSESSMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 3166, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3166. Special Administration Fund.

(a) *Creation.* — There is created in the State Treasury a special fund to be known as The Special Administration Fund of the Department of Labor. This Fund shall consist of:

(5) All moneys collected pursuant to § 3350(9)(n) of this title.

(b) *Administration.* — All moneys collected pursuant to this section shall be deposited in the clearing account of the Unemployment Compensation Fund for clearance only and shall not become part of such Fund. After clearance, the moneys shall be deposited in the Special Administration Fund of the Department of Labor. All moneys in this Fund shall be prudently invested to the credit of this Fund, administered and disbursed in the same manner as is provided by law for other special funds in the State Treasury and such moneys shall be maintained in a separate ledger account on the books of the Secretary of Finance. ~~The State Treasurer shall be the custodian of and shall be liable on the Treasurer's official bond for the faithful performance of the Treasurer's duties in connection with the Fund. Such liability on the official bond shall exist in addition to the liability upon any separate bond which may be given by the State Treasurer. All sums recovered on any such official bond for losses sustained by the Fund shall be deposited in the Fund.~~ The State Treasurer shall invest the Fund consistent with the investment policies established by the Cash Management Policy Board and credit interest to the Fund monthly consistent with the rate established by the Cash Management Policy Board. Money in the Fund at the end of a State fiscal year carries forward and must not revert to the General Fund. Balances to the credit of the Fund shall not lapse at any time but shall be continuously available to the Secretary of Labor for expenditures consistent with this section.

(c) *Use.* — The moneys in the Special Administration Fund may be used by the Department for:

(5) The payment of interest on advances from the federal government for unemployment compensation ~~benefits~~ benefits, which shall be from moneys collected pursuant to § 3391 of this title;

(6) The payment of the costs of programs to counsel, retrain and place dislocated workers, to assist in school-to-work transition activities, to provide industrial training, to provide career-ladder training for state employees, and the payment of the administrative costs of such programs, which shall be from moneys collected pursuant to § 3401 of this ~~title.~~ title; and

(7) The payment of costs of unemployment compensation technology automation and improvement initiatives established by the Department and the payment of the administrative costs of such technology automation and improvement initiatives.

Section 2. Amend § 3348, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3348. Average employer assessment rate; average industry assessment rate; average construction industry assessment rate; new employer rate; standard rate of assessment [Effective Dec. 31, 2023].

(m) Notwithstanding any other provisions in this section, for calendar year 2024, effective January 1, 2024, the average employer assessment rate, the average industry assessment rate, and the average construction industry assessment rate shall each be 1%.

Section 3. Amend § 3350, Title 19 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3350. Variations from new employer rate [Effective Dec. 31, 2023].

Prior to the calendar year 1954, each employer's rate for any calendar year shall be determined on the basis of the employer's record as of December 31 of the preceding calendar year. For the year 1954 and each calendar year thereafter each employer's rate for any calendar year shall be determined on the basis of the employer's record as of September 30 of the preceding calendar year. Variations from the standard rate of assessments shall be determined in accordance with the following requirements:

(9) Supplemental Assessment Rate.

m. ~~Notwithstanding any other provisions in this section, for~~ For any calendar year beginning January 1, 2004, ~~and thereafter,~~ and ending December 31, 2023, each employer's new employer rate or basic assessment rate, whichever shall be applicable to such employer, shall be increased by a "supplemental assessment rate" of 0.2%.

n. Notwithstanding any other provisions in this section, for any calendar year beginning January 1, 2024, and thereafter, in addition to all other payments to the State due under this title, each employer liable for assessments under Chapter 33 of this title shall also be liable for a "supplemental assessment" on all taxable wages, as defined in § 3302(19) of this title, payable by each such employer. The supplemental assessment shall

be levied at the rate of 0.2%. The supplemental assessment shall not affect the computation of any other assessments due under this title. Payments of supplemental assessments shall be made at the same time and in the same manner as prescribed for payment of assessments under § 3345 of this title and all regulations prescribed by the Department in support of that section. The restrictions in section § 3345 of this title apply equally to the provisions of this section. Failure to make these payments shall be subject to interest, penalties, and all other collection actions provided for failure to pay assessments under Chapter 33 of this title. The amount of the supplemental assessment due shall be considered part of the total amount of contributions paid or payable by the employing unit for purposes of the penalties assessed in § 3125(c) of this title. All supplemental assessments, interest, and penalties collected under this section shall be deposited in the Special Administration Fund of the Department of Labor and shall be used only for the purposes set forth in paragraphs (c)(1), (c)(3), (c)(5) and (c)(7) of § 3166 of this title. The Department will submit quarterly reports to the Director of the Office of Management and Budget, the Controller General, and the Unemployment Compensation Advisory Council members regarding the status of the supplemental assessments.

(15) Notwithstanding any other provisions in this section, for calendar year 2024, effective January 1, 2024, employers shall be assigned a basic assessment rate in accordance with the following table:

2024 – Special One Year Schedule of Rates

Benefit Wage Ratio (%) Does Not Exceed:	Basic Assessment Rate:
20	0.1%
30	0.25%
40	0.50%
50	1.00%
55	2.00%
60	2.50%
70	3.50%
80	4.50%
90	5.00%

a. If the employer's benefit wage ratio exceeds the highest percentage in the table set forth in paragraph (15) of this section, the employer's basic assessment rate shall be 5.40%.

b. Employers who are determined for calendar year 2024 to have the delinquency rate of assessment pursuant to paragraph (6) of this section shall continue to be assigned the delinquency rate.

SYNOPSIS

This Act will continue for calendar year 2024 the temporary relief provided in calendar year 2023 to employers who pay unemployment tax assessments. It will continue to reduce new employer tax rates, hold constant overall employer tax rates from last calendar year, and reduce the maximum earned rate. This Act will also continue the temporary simplification of the tax rate schedules that are used to calculate unemployment assessments paid by employers. The Governor's agreement to use federal pandemic funds to restore the pandemic-depleted Unemployment Trust Fund made the Unemployment Trust Fund sufficiently solvent and is allowing the Department to implement unemployment tax relief measures to Delaware employers for an additional one-year period for calendar year 2024. The Department estimates that these unemployment tax assessment changes will reduce the tax obligation of employers an estimated $50 million compared to the tax rates absent the temporary relief.

This Act also restructures the supplemental assessment that is currently collected from all employers, keeping it at the same rate of 0.2%, but depositing it in the Special Administration Fund instead of the UI Trust Fund. This Act expands the uses for the Special Administration Fund to include future technology needs of the Department and makes technical corrections to the administration provisions of the Special Administration Fund to align with current State Treasurer practices.