

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 495
95TH GENERAL ASSEMBLY

2121L.05C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 288.040, 288.050, 288.160, 288.170, 288.250, and 288.330, RSMo, and to enact in lieu thereof six new sections relating to unemployment compensation, with penalty provisions and an emergency clause.

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

Section A. Sections 288.040, 288.050, 288.160, 288.170, 288.250, and 288.330, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 288.040, 288.050, 288.160, 288.170, 288.250, and 288.330, to read as follows:

288.040. 1. A claimant who is unemployed and has been determined to be an insured worker shall be eligible for benefits for any week only if the deputy finds that:

(1) The claimant has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the division may prescribe;

(2) The claimant is able to work and is available for work. No person shall be deemed available for work unless such person has been and is actively and earnestly seeking work. Upon the filing of an initial or renewed claim, and prior to the filing of each weekly claim thereafter, the deputy shall notify each claimant of the number of work search contacts required to constitute an active search for work. No person shall be considered not available for work, pursuant to this subdivision, solely because he or she is a substitute teacher or is on jury duty. A claimant shall not be determined to be ineligible pursuant to this subdivision because of not actively and earnestly seeking work if:

(a) The claimant is participating in training approved pursuant to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended);

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.

15 (b) The claimant is temporarily unemployed through no fault of his or her own and has
16 a definite recall date within eight weeks of his or her first day of unemployment; however, upon
17 application of the employer responsible for the claimant's unemployment, such eight-week period
18 may be extended not to exceed a total of sixteen weeks at the discretion of the director;

19 (3) The claimant has reported in person to an office of the division as directed by the
20 deputy, but at least once every four weeks, except that a claimant shall be exempted from the
21 reporting requirement of this subdivision if:

22 (a) The claimant is claiming benefits in accordance with division regulations dealing
23 with partial or temporary total unemployment; or

24 (b) The claimant is temporarily unemployed through no fault of his or her own and has
25 a definite recall date within eight weeks of his or her first day of unemployment; or

26 (c) The claimant resides in a county with an unemployment rate, as published by the
27 division, of ten percent or more and in which the county seat is more than forty miles from the
28 nearest division office;

29 (d) The director of the division of employment security has determined that the claimant
30 belongs to a group or class of workers whose opportunities for reemployment will not be
31 enhanced by reporting in person, or is prevented from reporting due to emergency conditions that
32 limit access by the general public to an office that serves the area where the claimant resides, but
33 only during the time such circumstances exist. Ineligibility pursuant to this subdivision shall
34 begin on the first day of the week which the claimant was scheduled to claim and shall end on
35 the last day of the week preceding the week during which the claimant does report in person to
36 the division's office;

37 (4) Prior to the first week of a period of total or partial unemployment for which the
38 claimant claims benefits he or she has been totally or partially unemployed for a waiting period
39 of one week. No more than one waiting week will be required in any benefit year. During
40 calendar year 2008 and each calendar year thereafter, the one-week waiting period shall become
41 compensable once his or her remaining balance on the claim is equal to or less than the
42 compensable amount for the waiting period. No week shall be counted as a week of total or
43 partial unemployment for the purposes of this subsection unless it occurs within the benefit year
44 which includes the week with respect to which the claimant claims benefits;

45 (5) The claimant has made a claim for benefits within fourteen days from the last day
46 of the week being claimed. The fourteen-day period may, for good cause, be extended to
47 twenty-eight days;

48 (6) The claimant has reported to an employment office to participate in a reemployment
49 assessment and reemployment services as directed by the deputy or designated staff of an
50 employment office, unless the deputy determines that good cause exists for the claimant's failure

51 to participate in such reemployment assessment and reemployment services. For purposes of this
52 section, "reemployment services" may include, but not be limited to, the following:

53 (a) Providing an orientation to employment office services;

54 (b) Providing job search assistance; and

55 (c) Providing labor market statistics or analysis;

56 Ineligibility under this subdivision shall begin on the first day of the week which the claimant
57 was scheduled to report for the reemployment assessment or reemployment services and shall
58 end on the last day of the week preceding the week during which the claimant does report in
59 person to the employment office for such reemployment assessment or reemployment services;

60 (7) The claimant is participating in reemployment services, such as job search assistance
61 services, as directed by the deputy if the claimant has been determined to be likely to exhaust
62 regular benefits and to need reemployment services pursuant to a profiling system established
63 by the division, unless the deputy determines that:

64 (a) The individual has completed such reemployment services; or

65 (b) There is justifiable cause for the claimant's failure to participate in such
66 reemployment services.

67 2. A claimant shall be ineligible for waiting week credit or benefits for any week for
68 which the deputy finds he or she is or has been suspended by his or her most recent employer for
69 misconduct connected with his or her work. Suspensions of four weeks or more shall be treated
70 as discharges.

71 3. (1) Benefits based on "service in employment", defined in subsections 7 and 8 of
72 section 288.034, shall be payable in the same amount, on the same terms and subject to the same
73 conditions as compensation payable on the basis of other service subject to this law; except that:

74 (a) With respect to service performed in an instructional, research, or principal
75 administrative capacity for an educational institution, benefits shall not be paid based on such
76 services for any week of unemployment commencing during the period between two successive
77 academic years or terms, or during a similar period between two regular but not successive terms,
78 or during a period of paid sabbatical leave provided for in the individual's contract, to any
79 individual if such individual performs such services in the first of such academic years (or terms)
80 and if there is a contract or a reasonable assurance that such individual will perform services in
81 any such capacity for any educational institution in the second of such academic years or terms;

82 (b) With respect to services performed in any capacity (other than instructional, research,
83 or principal administrative capacity) for an educational institution, benefits shall not be paid on
84 the basis of such services to any individual for any week which commences during a period
85 between two successive academic years or terms if such individual performs such services in the

86 first of such academic years or terms and there is a contract or a reasonable assurance that such
87 individual will perform such services in the second of such academic years or terms;

88 (c) With respect to services described in paragraphs (a) and (b) of this subdivision,
89 benefits shall not be paid on the basis of such services to any individual for any week which
90 commences during an established and customary vacation period or holiday recess if such
91 individual performed such services in the period immediately before such vacation period or
92 holiday recess, and there is reasonable assurance that such individual will perform such services
93 immediately following such vacation period or holiday recess;

94 (d) With respect to services described in paragraphs (a) and (b) of this subdivision,
95 benefits payable on the basis of services in any such capacity shall be denied as specified in
96 paragraphs (a), (b), and (c) of this subdivision to any individual who performed such services at
97 an educational institution while in the employ of an educational service agency, and for this
98 purpose the term "educational service agency" means a governmental agency or governmental
99 entity which is established and operated exclusively for the purpose of providing such services
100 to one or more educational institutions.

101 (2) If compensation is denied for any week pursuant to paragraph (b) or (d) of
102 subdivision (1) of this subsection to any individual performing services at an educational
103 institution in any capacity (other than instructional, research or principal administrative capacity),
104 and such individual was not offered an opportunity to perform such services for the second of
105 such academic years or terms, such individual shall be entitled to a retroactive payment of the
106 compensation for each week for which the individual filed a timely claim for compensation and
107 for which compensation was denied solely by reason of paragraph (b) or (d) of subdivision (1)
108 of this subsection.

109 4. (1) A claimant shall be ineligible for waiting week credit, benefits or shared work
110 benefits for any week for which he or she is receiving or has received remuneration exceeding
111 his or her weekly benefit amount or shared work benefit amount in the form of:

112 (a) Compensation for temporary partial disability pursuant to the workers' compensation
113 law of any state or pursuant to a similar law of the United States;

114 (b) A governmental or other pension, retirement or retired pay, annuity, or other similar
115 periodic payment which is based on the previous work of such claimant to the extent that such
116 payment is provided from funds provided by a base period or chargeable employer pursuant to
117 a plan maintained or contributed to by such employer; but, except for such payments made
118 pursuant to the Social Security Act or the Railroad Retirement Act of 1974 (or the corresponding
119 provisions of prior law), the provisions of this paragraph shall not apply if the services performed
120 for such employer by the claimant after the beginning of the base period (or remuneration for

121 such services) do not affect eligibility for or increase the amount of such pension, retirement or
122 retired pay, annuity or similar payment.

123 (2) If the remuneration referred to in this subsection is less than the benefits which would
124 otherwise be due, the claimant shall be entitled to receive for such week, if otherwise eligible,
125 benefits reduced by the amount of such remuneration, and, if such benefit is not a multiple of one
126 dollar, such amount shall be lowered to the next multiple of one dollar.

127 (3) Notwithstanding the provisions of subdivisions (1) and (2) of this subsection, if a
128 claimant has contributed in any way to the Social Security Act or the Railroad Retirement Act
129 of 1974, or the corresponding provisions of prior law, no part of the payments received pursuant
130 to such federal law shall be deductible from the amount of benefits received pursuant to this
131 chapter.

132 5. A claimant shall be ineligible for waiting week credit or benefits for any week for
133 which or a part of which he or she has received or is seeking unemployment benefits pursuant
134 to an unemployment insurance law of another state or the United States; provided, that if it be
135 finally determined that the claimant is not entitled to such unemployment benefits, such
136 ineligibility shall not apply.

137 6. (1) A claimant shall be ineligible for waiting week credit or benefits for any week for
138 which the deputy finds that such claimant's total or partial unemployment is due to a stoppage
139 of work which exists because of a labor dispute in the factory, establishment or other premises
140 in which such claimant is or was last employed. In the event the claimant secures other
141 employment from which he or she is separated during the existence of the labor dispute, the
142 claimant must have obtained bona fide employment as a permanent employee for at least the
143 major part of each of two weeks in such subsequent employment to terminate his or her
144 ineligibility. If, in any case, separate branches of work which are commonly conducted as
145 separate businesses at separate premises are conducted in separate departments of the same
146 premises, each such department shall for the purposes of this subsection be deemed to be a
147 separate factory, establishment or other premises. This subsection shall not apply if it is shown
148 to the satisfaction of the deputy that:

149 (a) The claimant is not participating in or financing or directly interested in the labor
150 dispute which caused the stoppage of work; and

151 (b) The claimant does not belong to a grade or class of workers of which, immediately
152 preceding the commencement of the stoppage, there were members employed at the premises
153 at which the stoppage occurs, any of whom are participating in or financing or directly interested
154 in the dispute.

155 (2) "Stoppage of work" as used in this subsection means a substantial diminution of the
156 activities, production or services at the establishment, plant, factory or premises of the employing

157 unit. This definition shall not apply to a strike where the employees in the bargaining unit who
158 initiated the strike are participating in the strike. Such employees shall not be eligible for waiting
159 week credit or benefits during the period when the strike is in effect, regardless of diminution,
160 unless the employer has been found guilty of an unfair labor practice by the National Labor
161 Relations Board or a federal court of law for an act or actions preceding or during the strike.

162 7. On or after January 1, 1978, benefits shall not be paid to any individual on the basis
163 of any services, substantially all of which consist of participating in sports or athletic events or
164 training or preparing to so participate, for any week which commences during the period between
165 two successive sport seasons (or similar periods) if such individual performed such services in
166 the first of such seasons (or similar periods) and there is a reasonable assurance that such
167 individual will perform such services in the later of such seasons (or similar periods).

168 8. Benefits shall not be payable on the basis of services performed by an alien, unless
169 such alien is an individual who was lawfully admitted for permanent residence at the time such
170 services were performed, was lawfully present for purposes of performing such services, or was
171 permanently residing in the United States under color of law at the time such services were
172 performed (including an alien who was lawfully present in the United States as a result of the
173 application of the provisions of Section 212(d)(5) of the Immigration and Nationality Act).

174 (1) Any data or information required of individuals applying for benefits to determine
175 whether benefits are not payable to them because of their alien status shall be uniformly required
176 from all applicants for benefits.

177 (2) In the case of an individual whose application for benefits would otherwise be
178 approved, no determination that benefits to such individual are not payable because of such
179 individual's alien status shall be made except upon a preponderance of the evidence.

180 9. **A claimant shall be ineligible for waiting week credit or benefits for any week**
181 **such claimant has an outstanding penalty which was assessed based upon an overpayment**
182 **of benefits.**

183 10. The directors of the division of employment security and the division of workforce
184 development shall submit to the governor, the speaker of the house of representatives, and the
185 president pro tem of the senate no later than October 15, 2006, a report outlining their
186 recommendations for how to improve work search verification and claimant reemployment
187 activities. The recommendations shall include, but not limited to how to best utilize
188 "greathires.org", and how to reduce the average duration of unemployment insurance claims.
189 Each calendar year thereafter, the directors shall submit a report containing their
190 recommendations on these issues by December thirty-first of each year.

288.050. 1. Notwithstanding the other provisions of this law, a claimant shall be
2 disqualified for waiting week credit or benefits until after the claimant has earned wages for

3 work insured pursuant to the unemployment compensation laws of any state equal to ten times
4 the claimant's weekly benefit amount if the deputy finds:

5 (1) That the claimant has left work voluntarily without good cause attributable to such
6 work or to the claimant's employer. A temporary employee of a temporary help firm will be
7 deemed to have voluntarily quit employment if the employee does not contact the temporary help
8 firm for reassignment prior to filing for benefits. Failure to contact the temporary help firm will
9 not be deemed a voluntary quit unless the claimant has been advised of the obligation to contact
10 the firm upon completion of assignments and that unemployment benefits may be denied for
11 failure to do so. The claimant shall not be disqualified:

12 (a) If the deputy finds the claimant quit such work for the purpose of accepting a more
13 remunerative job which the claimant did accept and earn some wages therein;

14 (b) If the claimant quit temporary work to return to such claimant's regular employer; or

15 (c) If the deputy finds the individual quit work, which would have been determined not
16 suitable in accordance with paragraphs (a) and (b) of subdivision (3) of this subsection, within
17 twenty-eight calendar days of the first day worked;

18 (d) As to initial claims filed after December 31, 1988, if the claimant presents evidence
19 supported by competent medical proof that she was forced to leave her work because of
20 pregnancy, notified her employer of such necessity as soon as practical under the circumstances,
21 and returned to that employer and offered her services to that employer as soon as she was
22 physically able to return to work, as certified by a licensed and practicing physician, but in no
23 event later than ninety days after the termination of the pregnancy. An employee shall have been
24 employed for at least one year with the same employer before she may be provided benefits
25 pursuant to the provisions of this paragraph;

26 (2) That the claimant has retired pursuant to the terms of a labor agreement between the
27 claimant's employer and a union duly elected by the employees as their official representative
28 or in accordance with an established policy of the claimant's employer; or

29 (3) That the claimant failed without good cause either to apply for available suitable
30 work when so directed by a deputy of the division or designated staff of an employment office
31 as defined in [subsection 16] **subdivision (16) of subsection 1** of section 288.030, or to accept
32 suitable work when offered the claimant, either through the division or directly by an employer
33 by whom the individual was formerly employed, or to return to the individual's customary
34 self-employment, if any, when so directed by the deputy. An offer of work shall be rebuttably
35 presumed if an employer notifies the claimant in writing of such offer by sending an
36 acknowledgment via any form of certified mail issued by the United States Postal Service stating
37 such offer to the claimant at the claimant's last known address. Nothing in this subdivision shall

38 be construed to limit the means by which the deputy may establish that the claimant has or has
39 not been sufficiently notified of available work.

40 (a) In determining whether or not any work is suitable for an individual, the division
41 shall consider, among other factors and in addition to those enumerated in paragraph (b) of this
42 subdivision, the degree of risk involved to the individual's health, safety and morals, the
43 individual's physical fitness and prior training, the individual's experience and prior earnings, the
44 individual's length of unemployment, the individual's prospects for securing work in the
45 individual's customary occupation, the distance of available work from the individual's residence
46 and the individual's prospect of obtaining local work; except that, if an individual has moved
47 from the locality in which the individual actually resided when such individual was last
48 employed to a place where there is less probability of the individual's employment at such
49 individual's usual type of work and which is more distant from or otherwise less accessible to
50 the community in which the individual was last employed, work offered by the individual's most
51 recent employer if similar to that which such individual performed in such individual's last
52 employment and at wages, hours, and working conditions which are substantially similar to those
53 prevailing for similar work in such community, or any work which the individual is capable of
54 performing at the wages prevailing for such work in the locality to which the individual has
55 moved, if not hazardous to such individual's health, safety or morals, shall be deemed suitable
56 for the individual;

57 (b) Notwithstanding any other provisions of this law, no work shall be deemed suitable
58 and benefits shall not be denied pursuant to this law to any otherwise eligible individual for
59 refusing to accept new work under any of the following conditions:

- 60 a. If the position offered is vacant due directly to a strike, lockout, or other labor dispute;
61 b. If the wages, hours, or other conditions of the work offered are substantially less
62 favorable to the individual than those prevailing for similar work in the locality;
63 c. If as a condition of being employed the individual would be required to join a
64 company union or to resign from or refrain from joining any bona fide labor organization.

65 2. If a deputy finds that a claimant has been discharged for misconduct connected with
66 the claimant's work, such claimant shall be disqualified for waiting week credit and benefits, and
67 no benefits shall be paid nor shall the cost of any benefits be charged against any employer for
68 any period of employment within the base period until the claimant has earned wages for work
69 insured under the unemployment laws of this state or any other state as prescribed in this section.

70 In addition to the disqualification for benefits pursuant to this provision the division may in the
71 more aggravated cases of misconduct, cancel all or any part of the individual's wage credits,
72 which were established through the individual's employment by the employer who discharged
73 such individual, according to the seriousness of the misconduct. A disqualification provided for

74 pursuant to this subsection shall not apply to any week which occurs after the claimant has
75 earned wages for work insured pursuant to the unemployment compensation laws of any state
76 in an amount equal to six times the claimant's weekly benefit amount. Should a claimant be
77 disqualified on a second or subsequent occasion within the base period or subsequent to the base
78 period the claimant shall be required to earn wages in an amount equal to or in excess of six
79 times the claimant's weekly benefit amount for each disqualification.

80 3. Absenteeism or tardiness may constitute a rebuttable presumption of misconduct,
81 regardless of whether the last incident alone constitutes misconduct, if the discharge was the
82 result of a violation of the employer's attendance policy, provided the employee had received
83 knowledge of such policy prior to the occurrence of any absence or tardy upon which the
84 discharge is based.

85 4. **If a claimant is discharged for providing false information on his or her**
86 **employment application concerning felony convictions or training, licensure, certification,**
87 **or educational qualifications for such position, the claimant shall be deemed to have been**
88 **discharged for misconduct connected with the claimant's work, and the claimant shall be**
89 **disqualified for waiting week credit and benefits under subsection 2 of this section.**

90 5. Notwithstanding the provisions of subsection 1 of this section, a claimant may not be
91 determined to be disqualified for benefits because the claimant is in training approved pursuant
92 to Section 236 of the Trade Act of 1974, as amended, (19 U.S.C.A. Sec. 2296, as amended), or
93 because the claimant left work which was not suitable employment to enter such training. For
94 the purposes of this subsection "suitable employment" means, with respect to a worker, work of
95 a substantially equal or higher skill level than the worker's past adversely affected employment,
96 and wages for such work at not less than eighty percent of the worker's average weekly wage as
97 determined for the purposes of the Trade Act of 1974.

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 to the employer within three years of the date upon which the payment
41 of the contributions was due except that in any case of fraud or misrepresentation on the part of
42 the employer, the notice of the assessment of the contributions, interest and penalties may be
43 served [upon or mailed] **by registered or certified mail** to the **last known address of such**
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 lien 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.

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

7 2. (1) The purpose of this subsection is to provide a method of providing funds for the
8 payment of unemployment benefits or maintaining an adequate fund balance in the
9 unemployment compensation fund, and as an alternative to borrowing or obtaining advances
10 from the federal unemployment trust fund or for refinancing those loans or advances.

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

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

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

25 a. No officer or employee of this state shall be deemed to have forfeited or shall forfeit
26 his or her office or employment by reason of his or her acceptance of an appointment as a board
27 member or for his or her service to the board;

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

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

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

40 (4) The board is authorized, by offering for public negotiated sale, to issue, sell, and
41 deliver credit instruments, bearing interest at a fixed or variable rate as shall be determined by
42 the board, which shall mature no later than ten years after issuance, in the name of the board in
43 an amount determined by the board[, provided that the unpaid principal amount of any
44 outstanding credit instruments, combined with the unpaid principal amount of any financing
45 agreement entered into under subdivision (17) of this subsection, shall not exceed four hundred
46 fifty million dollars at any one time]. Such credit instruments may be issued, sold, and delivered
47 for the purposes set forth in subdivision (1) of this subsection. Such credit instrument may only
48 be issued upon the approval of a resolution authorizing such issuance by a simple majority of the
49 members of the board, with no other proceedings required.

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

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

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

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

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

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

79 (9) The board may prescribe the form, details, and incidents of the credit instruments and
80 make such covenants that in its judgment are advisable or necessary to properly secure the
81 payment thereof. If such credit instruments shall be authenticated by the bank or trust company
82 acting as registrar for such by the manual signature of a duly authorized officer or employee
83 thereof, the duly authorized officers of the board executing and attesting such credit instruments
84 may all do so by facsimile signature provided such signatures have been duly filed as provided
85 in the uniform facsimile signature of public officials law, sections 105.273 to 105.278, RSMo,
86 when duly authorized by resolution of the board, and the provisions of section 108.175, RSMo,
87 shall not apply to such credit instruments. The board may provide for the flow of funds and the
88 establishment and maintenance of separate accounts within the special employment security
89 fund, including the interest and sinking account, the reserve account, and other necessary
90 accounts, and may make additional covenants with respect to the credit instruments in the
91 documents authorizing the issuance of credit instruments including refunding credit instruments.
92 The resolutions authorizing the issuance of credit instruments may also prohibit the further
93 issuance of credit instruments or other obligations payable from appropriated moneys or may
94 reserve the right to issue additional credit instruments to be payable from appropriated moneys
95 on a parity with or subordinate to the lien and pledge in support of the credit instruments being
96 issued and may contain other provisions and covenants as determined by the board, provided that
97 any terms, provisions or covenants provided in any resolution of the board shall not be
98 inconsistent with the provisions of this section.

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

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

106 (12) As determined necessary by the board the proceeds of the credit instruments less
107 the cost of issuance shall be placed in the state's unemployment compensation fund and may be

108 used for the purposes for which that fund may otherwise be used. If those net proceeds are not
109 placed immediately in the unemployment compensation fund they shall be held in the special
110 employment security fund in an account designated for that purpose until they are transferred to
111 the unemployment compensation fund provided that the proceeds of refunding credit instruments
112 may be placed in an escrow account or such other account or instrument as determined necessary
113 by the board.

114 (13) The board may enter into any contract or agreement deemed necessary or desirable
115 to effectuate cost-effective financing hereunder. Such agreements may include credit
116 enhancement, credit support, or interest rate agreements including, but not limited to,
117 arrangements such as municipal bond insurance; surety bonds; tax anticipation notes; liquidity
118 facilities; forward agreements; tender agreements; remarketing agreements; option agreements;
119 interest rate swap, exchange, cap, lock or floor agreements; letters of credit; and purchase
120 agreements. Any fees or costs associated with such agreements shall be deemed administrative
121 expenses for the purposes of calculating the credit instrument and financing agreement
122 repayment surcharge under subsection 3 of section 288.128. The board, with consideration of
123 all other costs being equal, shall give preference to Missouri-headquartered financial institutions,
124 or those out-of-state-based financial institutions with at least one hundred Missouri employees.

125 (14) To the extent this section conflicts with other laws the provisions of this section
126 prevail. This section shall not be subject to the provisions of sections 23.250 to 23.298, RSMo.

127 (15) If the United States Secretary of Labor holds that a provision of this subsection or
128 of any provision related to the levy or use of the credit instrument and financial agreement
129 repayment surcharge does not conform with a federal statute or would result in the loss to the
130 state of any federal funds otherwise available to it the board, in cooperation with the department
131 of labor and industrial relations, may administer this subsection, and other provisions related to
132 the credit instrument and financial agreement repayment surcharge, to conform with the federal
133 statute until the general assembly meets in its next regular session and has an opportunity to
134 amend this subsection or other sections, as applicable.

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

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

139 (b) The board is authorized to enter financial agreements with any lender for the
140 purposes set forth in subdivision (1) of this subsection, or to refinance other financial agreements
141 in whole or in part, upon the approval of the simple majority of the members of the board of a
142 resolution authorizing such financial agreements, with no other proceedings required. [The total
143 amount of the outstanding obligation under all such agreements at any one time shall not exceed

144 the difference of four hundred fifty million dollars and the principal amount of credit instruments
145 outstanding under this subsection.] In no instance shall the outstanding obligation under any
146 financial agreement continue for more than ten years. Repayment of obligations to lenders shall
147 be made from the special employment security fund, section 288.310, subject to appropriation
148 by the general assembly.

149 (c) Financial agreements entered into under this subdivision shall not constitute debts
150 of this state or of the board or any agency, political corporation, or political subdivision of this
151 state and are not a pledge of the faith and credit of this state, the board or of any of those
152 governmental entities and shall not constitute an indebtedness within the meaning of any
153 constitutional or statutory limitation upon the incurring of indebtedness. The financial
154 agreements are payable only from revenue provided for under this chapter. The financial
155 agreements shall contain a statement to the effect that:

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

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

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

165 (e) The board may prescribe the form, details and incidents of the financing agreements
166 and make such covenants that in its judgment are advisable or necessary to properly secure the
167 payment thereof provided that any terms, provisions or covenants provided in any such financing
168 agreement shall not be inconsistent with the provisions of this section. If such financing
169 agreements shall be authenticated by the bank or trust company acting as registrar for such by
170 the manual signature of a duly authorized officer or employee thereof, the duly authorized
171 officers of the board executing and attesting such financing agreements may all do so by
172 facsimile signature provided such signatures have been duly filed as provided in the uniform
173 facsimile signature of public officials law, sections 105.273 to 105.278, RSMo, when duly
174 authorized by resolution of the board and the provisions of section 108.175, RSMo, shall not
175 apply to such financing agreements.

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

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

181 3. In event of the suspension of this law, any unobligated funds in the unemployment
182 compensation fund, and returned by the United States Treasurer because such Federal Social
183 Security Act is inoperative, shall be held in custody by the treasurer and under supervision of the
184 division until the legislature shall provide for the disposition thereof. In event no disposition is
185 made by the legislature at the next regular meeting subsequent to suspension of said law, then
186 all unobligated funds shall be returned ratably to those who contributed thereto.

187 4. For purposes of this section, as contained in senate substitute no. 2 for senate
188 committee substitute for house substitute for house committee substitute for house bill nos. 1268
189 and 1211, ninety-second general assembly, second regular session, the revisor of statutes shall
190 renumber subdivision (16) of subsection 2 of such section as subdivision (17) of such subsection
191 and renumber subdivision (17) of subsection 2 of such section as subdivision (16) of such
192 subsection.

Section B. Because immediate action is necessary to help Missourians during economic
2 hardship, section A of this act is deemed necessary for the immediate preservation of the public
3 health, welfare, peace, and safety, and is hereby declared to be an emergency act within the
4 meaning of the constitution, and section A of this act shall be in full force and effect upon its
5 passage and approval.

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