

# Senate Study Bill 2135

## Conference Committee Text

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1 1 Section 1. Section 96.7, subsection 2, paragraph e, Code  
1 2 Supplement 1995, is amended to read as follows:  
1 3 e. The division shall fix the contribution rate for each  
1 4 employer and notify the employer of the rate by regular mail  
1 5 to the last known address of the employer. An employer may  
1 6 appeal to the division for a revision of the contribution rate  
1 7 within thirty days from the date of the notice to the  
1 8 employer. After providing an opportunity for a hearing, the  
1 9 division may affirm, set aside, or modify its former  
1 10 determination and may grant the employer a new contribution  
1 11 rate. The division shall notify the employer of its decision  
1 12 by regular mail. Judicial review of action of the division  
1 13 may be sought pursuant to chapter 17A.

1 14 If an employer's account has been charged with benefits as  
1 15 the result of a decision allowing benefits and the decision is  
1 16 reversed, the employer may appeal, within thirty days from the  
1 17 date of the next contribution rate notice, for a recomputation  
1 18 of the rate. If contributions become due at a disputed  
1 19 contribution rate prior to the employer receiving a decision  
1 20 reversing benefits, the employer shall pay the contributions  
1 21 at the disputed rate but shall be eligible for a refund  
1 22 pursuant to section 96.14, subsection 5. If a base period  
1 23 employer's account has been charged with benefits paid to an  
1 24 employee at a time when the employee was employed by the base  
1 25 period employer in the same employment as in the base period,  
1 26 the employer may appeal, within thirty days from the date of  
1 27 the first notice of the employer's contribution rate which is  
1 28 based on the charges, for a recomputation of the rate.

1 29 Sec. 2. Section 96.7, subsection 7, paragraph e, Code  
1 30 Supplement 1995, is amended to read as follows:  
1 31 e. If

~~an~~  
- the entire enterprise or business of a  
1 32 reimbursable

~~government~~  
- governmental entity is sold or  
1 33 otherwise transferred to a subsequent employing unit and the  
1 34

~~successor~~  
- acquiring employing unit continues to operate the  
1 35 enterprise or business, the

~~successor~~  
- acquiring employing unit  
2 1 shall assume the position of the reimbursable

~~government~~  
-  
2 2 governmental entity with respect to the reimbursable  
2 3

~~government~~  
- governmental entity's liability to pay the division

2 4 for reimbursable benefits based on the governmental entity's  
2 5 payroll

~~and reimbursable benefits~~

- to the same extent as if no

2 6 change in the ownership or control of the enterprise or

2 7 business had occurred, whether or not the

~~successor employer~~

-

2 8 acquiring employing unit elected or elects, or was or is

2 9 eligible to elect, to become a reimbursable employer with

2 10 respect to the

~~employer's~~

- acquiring employing unit's own

2 11 payroll prior to or after the

~~sale or transfer~~

- acquisition of

2 12 the governmental entity's enterprise or business.

2 13 Sec. 3. Section 96.7, subsection 8, paragraph b,

2 14 subparagraph (6), Code Supplement 1995, is amended to read as

2 15 follows:

2 16 (6) If

~~an~~

- the entire enterprise or business of a

2 17 reimbursable nonprofit organization is sold or otherwise

2 18 transferred to a subsequent employing unit and the

~~successor~~

-

2 19 acquiring employing unit continues to operate the enterprise

2 20 or business, the

~~successor~~

- acquiring employing unit shall

2 21 assume the position of the reimbursable nonprofit organization

2 22 with respect to the nonprofit organization's liability to pay

2 23 the division for reimbursable benefits based on the nonprofit

2 24 organization's payroll

~~and reimbursable benefits~~

- to the same

2 25 extent as if no change in the ownership or control of the

2 26 enterprise or business had occurred, whether or not the

2 27

~~successor employer~~

- acquiring employing unit elected or elects,

2 28 or was or is eligible to elect, to become a reimbursable

2 29 employer with respect to the

~~employer's~~

- acquiring employing

2 30 unit's own payroll prior to or after the

~~sale or transfer~~

-

2 31 acquisition of the nonprofit organization's enterprise or

2 32 business.

2 33 Sec. 4. Section 96.14, subsection 5, Code 1995, is amended

2 34 to read as follows:

2 35 5. REFUNDS, COMPROMISES AND SETTLEMENTS. If the division

3 1 of job service finds that an employer has paid contributions,

3 2

~~or~~

- interest on contributions, or penalties, which have been  
3 3 erroneously paid or

~~which have been paid~~

- if the employer has

3 4 overpaid contributions because the employer's contribution  
3 5 rate was subsequently reduced pursuant to section 96.7,  
3 6 subsection 2, paragraph "e", solely due to benefits initially  
3 7 charged against but later removed from an employer's account,  
3 8 and the employer has filed an application for

~~adjustment~~

- 3 9 refund, the division shall

~~make an adjustment, compromise, or~~

- 3 10

~~settlement, and, at the employer's option, shall either refund~~

- 3 11

~~the payments or treat the payments as voluntary contributions~~

- 3 12

~~with no limitation on the payments' effects on the employer's~~

- 3 13

~~contribution rate~~

- refund the erroneous payment or overpayment.

3 14 Refunds so made shall be charged to the fund to which the  
3 15 collections have been credited, and shall be paid to the  
3 16

~~claimant~~

- employer without interest. A claim for refund shall

3 17 be made within three years from the date of payment. For like  
3 18 cause,

~~adjustments~~

- refunds, compromises,

~~or refunds~~

- and

3 19 settlements may be made by the division on its own initiative  
3 20 within three years of the date of the payment or assessment.

3 21 If the division finds that the contribution that has been  
3 22 assessed against an employer is of doubtful collectibility or  
3 23 may not be collected in full, the division may institute a  
3 24 proceeding in the district court in the county in which the  
3 25 employer against which the tax is levied is located,  
3 26 requesting authority to compromise the contribution. Notice  
3 27 of the filing of an application shall be given to the  
3 28 interested parties as the court may prescribe. The court upon  
3 29 hearing may authorize the division to compromise and settle  
3 30 its claim for the contribution and shall fix the amount to be  
3 31 received by the division in full settlement of the claim and  
3 32 shall authorize the release of the division's lien for the  
3 33 contribution.

3 34

#### EXPLANATION

3 35 Section 1 of the bill provides that the division of job  
4 1 service send contribution rate notices to employers by regular

4 2 mail at the employer's last known address. The section also  
4 3 provides that the employer shall pay contributions at a  
4 4 disputed rate prior to a decision concerning the rate but that  
4 5 the employer is eligible for a refund pending a decision  
4 6 reversing benefits. Sections 1 and 4 also add language  
4 7 providing that the two Code sections dealing with employer  
4 8 contribution rates and refunds both refer to the other  
4 9 section.

4 10 Sections 2 and 3 change language concerning what occurs  
4 11 when governmental or nonprofit reimbursable employers sell  
4 12 their entire business. The bill changes "government" to  
4 13 "governmental" and "successor employer" to "acquiring  
4 14 employing unit".

4 15 BACKGROUND STATEMENT  
4 16 SUBMITTED BY THE AGENCY

4 17 The changes in all four sections of this bill are technical  
4 18 in nature and are intended for clarification of meaning,  
4 19 consistency with other sections of the Code, and to remove  
4 20 outdated language.

4 21 Section 1 clarifies that the division of job service send  
4 22 contribution rate notices by regular mail to the last known  
4 23 address and links section 96.7, subsection 2, to section  
4 24 96.14, subsection 5, to clarify that the two sections must be  
4 25 read together. Section 96.14, subsection 5, already infers  
4 26 that the employer must pay tax at the disputed rate by  
4 27 authorizing a refund if an overpayment of contributions is  
4 28 caused by benefits being reversed.

4 29 The words "the entire" are being added to sections 2 and 3  
4 30 of the bill to clarify that these sections deal with a  
4 31 complete sale of a reimbursable employer's business. The rest  
4 32 of the changes in language in sections 2 and 3 are for  
4 33 consistency or clarification only.

4 34 Section 4 adds the words "or penalties" to clarify that  
4 35 erroneously paid penalties may be refunded as is already  
5 1 inferred by section 96.13, subsection 3, which states that  
5 2 refunds of penalties are to come from the special employment  
5 3 security contingency fund. Section 4 links the refund of  
5 4 overpaid contributions because of the reversal of benefit  
5 5 charges back to section 96.7, subsection 2, because there can  
5 6 be no such overpayment of contributions if the rate is not  
5 7 reduced on appeal. Section 4 removes outdated language about  
5 8 voluntary contributions because private employer rates have  
5 9 not used contributions in the computation since 1987. The  
5 10 rest of the changes in section 4 are strictly for  
5 11 clarification purposes.

5 12 LSB 3285DP 76  
5 13 ec/jw/5.1