

Enrolled
Senate Bill 984

Sponsored by Senator STARR; Representative LINDSAY

CHAPTER

AN ACT

Relating to the Local Government Employer Benefit Trust Fund; amending ORS 294.725 and 294.735; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 294.725 is amended to read:

294.725. For the purposes of ORS 294.725 to 294.755:

(1) "Account balance" means the amount a political subdivision has paid into the Local Government Employer Benefit Trust Fund less the amount of unemployment benefits paid by the Employment Department on behalf of the political subdivision.

(2) "Account reserve ratio" means **the ratio, expressed as a percent carried to four decimal places, that is equal to:**

(a) The account balance of the political subdivision on June 30, divided by gross wages paid by **the political subdivision** to individuals subject to ORS chapter 657 during the four calendar quarters ending on June 30 [*by the political subdivision. The ratio shall be expressed as a percent carried to four decimal places.*]; **or**

(b) **For purposes of a redetermination made pursuant to ORS 294.735 (2)(b), the account balance of the political subdivision on the date of the request, divided by gross wages paid by the political subdivision to individuals subject to ORS chapter 657 during the last four-calendar-quarter period ending before the date of the request.**

(3) "Aggregate benefit cost rate" means the total unemployment benefits paid during a cost rate period that is attributable to wages paid by all political subdivisions divided by the gross wages paid to individuals subject to ORS chapter 657 during the cost rate period by all political subdivisions. The rate shall be expressed as a percent and rounded to the nearest one-tenth of one percent.

(4) "Benefit cost rate" means the total unemployment benefits paid during a cost rate period that is attributable to wages paid by a political subdivision divided by gross wages paid to individuals subject to ORS chapter 657 during the cost rate period by the political subdivision. The rate shall be expressed as a percent and carried to four decimal places.

(5) "Cost rate period" means:

(a) The prior three-year period ending June 30 of each year[.]; **or**

(b) **For purposes of a redetermination made pursuant to ORS 294.735 (2)(b), the three-year period ending on the last day of the last four-calendar-quarter period that ends before the date of the request.**

(6) "Department" means the Employment Department.

(7) "Director" means the Director of the Employment Department.

(8) "Erroneous benefit payments" means any amount paid to an individual to which the individual is not entitled due to:

(a) Any error, whether or not due to misrepresentation or nondisclosure of material fact by the claimant; or

(b) An initial decision to pay benefits that is subsequently reversed by a decision finding the individual was not eligible for the benefits and the decision has become final.

(9) "Local Government Employer Benefit Trust Fund" or "fund" means the fund created by ORS 294.730.

(10) "Political subdivision" means a political subdivision as defined by ORS 657.097.

(11) "Unemployment benefits" or "benefits" means regular and extended benefits paid under ORS chapter 657.

SECTION 2. ORS 294.735 is amended to read:

294.735. (1) A political subdivision shall pay into the Local Government Employer Benefit Trust Fund [*a percentage of*] **an amount equal to the percentage rate of the political subdivision, as determined under subsections (2) to (5) of this section, multiplied by** the gross wages [*it*] **the political subdivision** pays to individuals in employment subject to ORS chapter 657, except that minor adjustments to wages in a calendar quarter on which payments have previously been made may not result in either a credit to the [*employer*] **political subdivision** or an additional amount due the fund. [*The percentage shall be as determined in subsections (2) to (6) of this section.*]

(2)(a) As soon as possible after June 30 of each year, the Employment Department shall **determine** for each political subdivision [*determine*] the benefit cost rate [*and*], the account reserve ratio **and the percentage rate**, applicable as of that June 30.

(b) **Notwithstanding paragraph (a) of this subsection, upon the written request of a political subdivision, the Director of the Employment Department or an authorized representative of the director may redetermine at any time the benefit cost rate, the account reserve ratio and the percentage rate of the political subdivision.**

(3)(a) The percentage rate assigned to a political subdivision whose account has been potentially chargeable with benefits for each of the last four calendar quarters ending on the June 30 immediately preceding the determination shall be the benefit cost rate of the political subdivision plus one-third of the difference obtained by subtracting the political subdivision's account reserve ratio from 1.5 times the political subdivision's benefit cost rate. The resulting **percentage** rate shall be rounded up to the nearest one-tenth of one percent. A political subdivision's **percentage** rate shall be [*not less than*] **at least** one-tenth of one percent [*nor*] **but no** more than five percent.

[(4)] (b) The percentage rate assigned to a political subdivision whose account has not been potentially chargeable with benefits for each of the last four **calendar** quarters ending on the immediately preceding June 30 shall be the greater of one percent or 1.5 times the aggregate benefit cost rate [*for the cost rate period ending on that June 30*].

[(5)] (4) Notwithstanding [*subsections (3) and (4)*] **subsection (3)** of this section, a local government employer with an account balance on June 30 that is less than five percent of the taxable wage base currently in effect may not be assigned a **percentage** rate of:

(a) Less than two percent if the payroll of the employer was less than \$25,000 during the four most recently completed calendar quarters;

(b) Less than one percent if the payroll of the employer was \$25,000 or more but less than \$50,000 during the four most recently completed calendar quarters;

(c) Less than one-half of one percent if the payroll of the employer was \$50,000 or more but less than \$100,000 during the four most recently completed calendar quarters; or

(d) Less than two-tenths of one percent if the payroll of the employer was \$100,000 or more during the four most recently completed calendar quarters.

[(6)] (5) [*Percentages*] **Percentage rates determined or redetermined** in subsections [(3) to (5)] **(3) and (4)** of this section [*shall be applicable for the four-calendar-quarter period beginning July 1 of the year immediately*] **apply until July 1 next** following the determination **or redetermination**.

[(7)(a)] **(6)(a)** In addition to the payment made into the fund under [subsections (1) to (6)] **subsection (1)** of this section, [any] a political subdivision that has a negative account balance at the end of a calendar quarter and had a negative account balance at the end of each of the three immediately preceding calendar quarters shall make additional payments into the fund during each of the next four calendar quarters.

(b) The additional payment required **under this subsection** shall be computed as follows, with all computations omitting cents:

(A) Multiply the gross payroll reported by the employer during the four most recent calendar quarters by the current percentage rate of payment into the fund.

(B) Subtract the amount of benefits attributable to the employer that was reimbursed from the fund during the most recent four calendar quarters from the product [determined in] **computed under** subparagraph (A) of this paragraph.

(C) If the remainder [obtained in] **computed under** subparagraph (B) of this paragraph is more than zero, subtract the remainder from the negative balance of the account.

(D) If the remainder [in] **computed under** subparagraph (B) of this paragraph is zero or less, make no adjustment to the amount of the negative balance of the account.

(E) Divide the amounts [determined in] **computed under** either subparagraph (C) or (D) of this paragraph by four. The resulting [amount shall be] **quotient is** the additional payment required for each quarter.

[(b)] **(c)** [Only one such determination shall be made in any four-quarter period.] **One computation under this subsection may be made for an employer in each calendar quarter.** If the negative balance is eliminated before the end of the four quarters in which the additional payments were determined necessary, [no] further additional payments [will] **may not** be required under this subsection.

[(8)] **(7)** During the first four calendar quarters in which a political subdivision is a participant in the fund, additional payments shall be required if the account balance of the political subdivision is negative at the end of any of the four **calendar** quarters. The additional payment shall be [determined] **computed** in the same manner described in subsection [(7)] **(6)** of this section except that the computation in subsection [(7)(a)(A)] **(6)(b)(A)** and (B) of this section shall include only those **calendar** quarters in which the political subdivision was a participant in the fund.

[(9)] **(8)** Employers subject to [the provisions of] this section may request a refund of amounts in excess of the amount [required to obtain] **determined using** the minimum [contribution] **percentage** rate.

(9)(a) Notwithstanding subsection (6) of this section, a political subdivision that has an account reserve ratio equal to or less than zero and a percentage rate assigned under subsection (3) of this section equal to or greater than three percent may request in writing that the Director of the Employment Department grant an extended plan of additional payments.

(b) An extended plan of additional payments granted under this subsection may not exceed a period of 12 consecutive calendar quarters.

SECTION 3. This 2011 Act takes effect on the 91st day after the date on which the 2011 regular session of the Seventy-sixth Legislative Assembly adjourns sine die.

Passed by Senate June 1, 2011

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Robert Taylor, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 15, 2011

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Bruce Hanna, Speaker of House

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Arnie Roblan, Speaker of House

Received by Governor:

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Approved:

.....M,....., 2011

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2011

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Kate Brown, Secretary of State