

CHAPTER 933

H.B. No. 2107

An Act relating to the management of certain unemployment compensation funds.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 9c, Texas Unemployment Compensation Act (Article 5221b-7c, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The Advance Interest Trust Fund is established. The fund is a trust fund in the custody of the State Treasurer and may be used without appropriation by the Governor [only] for the purpose of paying interest incurred on advances from the federal Unemployment Trust Fund and to repay temporary transfers of surplus cash which may be made between this fund and other funds. Income from investment of the fund shall be deposited to the credit of the fund. If the amount of the fund exceeds the amount required to pay interest incurred on advances, the Governor shall transfer all or part of the surplus to the unemployment compensation fund for the payment of benefits. If the Governor, upon the advice of the Commission, determines that funds in the unemployment compensation fund will be depleted at the time payment on an advance from the federal Unemployment Trust Fund is due, and that depletion of the funds will cause the loss of some portion of the credit received by employers against their federal unemployment tax rate, or if the Governor determines that payment of interest on a federal loan can be avoided by keeping the balance of the unemployment compensation fund positive, the Governor may authorize the Commission to transfer money from the Advance Interest Trust Fund to the unemployment compensation fund.

(d) If the Commission finds after January 1 of a year that an interest payment on a federal advance will be due on September 30 of that year and that the estimated amount necessary to make that payment will not otherwise be available, a separate and additional tax is levied, in addition to other taxes, on each employer eligible for an experience tax rate. The rate of the additional tax is one-tenth of one percent, applied to the same wage base to which the employer's unemployment tax applies for the first two calendar quarters of that year. The tax is due on a date set by the Commission, and revenue from the tax shall be deposited to the credit of the Advance Interest Trust Fund. The tax is subject to the same penalty for late payment as the unemployment tax.

SECTION 2. Section 26, Texas Unemployment Compensation Act (Article 5221b-22a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 26. UNEMPLOYMENT COMPENSATION SPECIAL ADMINISTRATION FUND. There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, an Unemployment Compensation Special Administration Fund which may be used by the Commission for the purposes of paying costs of the administration of this Act including the costs of reimbursing the Unemployment Compensation Benefit Accounts for unemployment compensation benefits paid to former employees of the State of Texas which are based on service for the state, and the costs of construction and purchase of buildings and land necessary in such administration. The State Treasurer shall be the Treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the Commission, and the Comptroller shall issue warrants upon it in accordance with the directions of the Commission. All interest and penalties collected under the provisions of this Act and all moneys now on deposit in the Unemployment Compensation Special Administration Fund shall be paid into this fund. Said moneys shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) Federal funds which would, in the absence of said moneys, be available to finance expenditures for the administration of the Texas Unemployment Compensation Act. Nothing in this Section, however, shall prevent said moneys from being used as a revolving fund, to cover expenditures, necessary and proper under the Texas Unemployment Compensation Act, for which Federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The Commission may, by resolution duly entered in its Minutes, authorize to be charged against said moneys any expenditures which it deems proper in the interest of good administration of this Act, provided the Commission in such resolution finds that no other funds are available or can properly be used to finance such expenditures. All moneys which are deposited or paid into the Unemployment Compensation Special Administration Fund may be expended in accordance with the provisions of this Act, upon appropriation by the legislature. At the end of the state fiscal year, the unobligated and unencumbered balance of the Unemployment Compensation Special Administration Fund, except funds appropriated to administer this Act, shall be deposited to the credit of the account of this state in the Unemployment Trust Fund [~~and shall not lapse at any time or be transferred to any other fund~~]. All moneys in the Unemployment Compensation Special Administration Fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds. The State Treasurer shall be liable on his official bond for the faithful performance of his duties in connection with the Unemployment Compensation Special Administration Fund provided herein. Such liability on the official bond shall be effective immediately upon the enactment of this provision, and such liability shall exist in addition to any liability upon any separate bond existent on the effective date of this provision, or which may be given in the future. All sums recovered on any Surety Bond for losses sustained by the Unemployment Compensation Special Administration Fund shall be deposited in said

Unemployment Compensation Special Administration Fund. If it be determined by the Commission in accordance with the provisions of subsection 14(j) of this Act that the Commission should refund penalties which have been erroneously collected and which have been deposited in the Unemployment Compensation Special Administration Fund, the refund of such penalties shall be made, without interest, out of the Unemployment Compensation Special Administration Fund, notwithstanding the provisions of subsection 14(j) of this Act that payment of all refunds shall be made out of the Unemployment Compensation Fund. Such refunds paid out of the Unemployment Compensation Special Administration Fund shall be paid upon warrants issued by the Comptroller under the direction of the Commission.

SECTION 3. This Act takes effect September 1, 1985.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on April 30, 1985, by the following vote: Yeas 136, Nays 0, 1 present, not voting; House concurred in Senate amendments to H.B. No. 2107 on May 20, 1985, by a non-record vote; passed by the Senate, with amendments, on May 17, 1985, by the following vote: Yeas 30, Nays 0.

Approved: June 15, 1985

Effective: September 1, 1985