

2015 -- H 6001

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY -
VOLUNTARY CONTRIBUTIONS

Introduced By: Representatives DeSimone, Palangio, and Ackerman

Date Introduced: March 27, 2015

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 28-43-1 and 28-43-3 of the General Laws in Chapter 28-43
2 entitled "Employment Security - Contributions" are hereby amended to read as follows:

3 **28-43-1. Definitions. --** The following words and phrases as used in this chapter have the
4 following meanings, unless the context clearly requires otherwise:

5 (1) "Balancing account" means a book account to be established within the employment
6 security fund, the initial balance of which shall be established by the director as of September 30,
7 1979, by transferring the balance of the solvency account on that date to the balancing account.

8 (2) "Computation date" means September 30 of each year.

9 (3) "Eligible employer" means an employer who has had three (3) consecutive
10 experience years during each of which contributions have been credited to his account and
11 benefits have been chargeable to this account.

12 (4) "Employer's account" means a separate account to be established within the
13 employment security fund by the director as of September 30, 1958, for each employer subject to
14 chapters 42 -- 44 of this title out of the money remaining in that fund after the solvency account
15 has been established in the fund, by crediting to each employer an initial credit balance bearing
16 the same relation to the total fund balance so distributed, as his or her tax contributions to the
17 fund during the period beginning October 1, 1955 and ending on September 30, 1958 have to
18 aggregate tax contributions paid by all employers during the same period; provided, that nothing

1 contained in this section shall be construed to grant to any employer prior claim or rights to the
2 amount contributed by him or her to the fund.

3 (5) "Experience rate" means the contribution rate assigned to an employer's account
4 under whichever is applicable of schedules A -- I in § 28-43-8.

5 (6) "Experience year" means the period of twelve (12) consecutive calendar months
6 ending September 30 of each year.

7 (7) "Most recent employer" means the last base period employer from whom an
8 individual was separated from employment and for whom the individual worked for at least four
9 (4) weeks, and in each of those four (4) weeks had earnings of at least twenty (20) times the
10 minimum hourly wage as defined in chapter 12 of this title.

11 (8) "Reserve percentage" means, in relation to an employer's account, the net balance of
12 that account on a computation date, including any voluntary contributions made in accordance
13 with § 28-43-5.1, stated as a percentage of the employer's twelve (12) month average taxable
14 payroll for the last thirty-six (36) months ended on the immediately preceding June 30.

15 (9) "Reserve ratio of fund" means the ratio which the total amount available for the
16 payment of benefits in the employment security fund on September 30, 1979, or any computation
17 date thereafter, minus any outstanding federal loan balance, bears to the aggregate of all total
18 payrolls subject to this chapter paid during the twelve (12) month period ending on the
19 immediately preceding June 30, or the twelve (12) month average of all total payrolls during the
20 thirty-six (36) month period ending on that June 30, whichever percentage figure is smaller.

21 (10) "Taxable payroll" means, for the purpose of this chapter, the total of all wages as
22 defined in § 28-42-3(28).

23 (11) "Tax year" means the calendar year.

24 (12) "Total payroll" means, for the purpose of this chapter, the total of all wages paid by
25 all employers who are required to pay contributions under the provisions of chapters 42 -- 44 of
26 this title.

27 (13) "Voluntary contribution" means a contribution paid by an employer to his or her
28 account in accordance with § 28-43-5.1 to reduce the employer's experience rate for the ensuing
29 tax year.

30 **28-43-3. Employer's accounts -- Credits and charges.** -- Subsequent to the
31 establishment of a separate employer's account for each employer subject to chapters 42 -- 44 of
32 this title as set forth in § 28-43-1(4), the credits and charges to each employer's account, exclusive
33 of the state of Rhode Island, its political subdivisions, and their instrumentalities, shall be
34 determined as follows:

1 (1) Credits to each employer's account:

2 (i) After the September 30, 1958 computation date all contributions required under § 28-
3 43-8 and paid by each employer.

4 (ii) All surcharges required and paid under § 28-43-4.

5 [\(iii\) All voluntary contributions made by the employer made in accordance with § 28-43-](#)
6 [5.1.](#)

7 (2) Charges to each employer's account:

8 (i) Refunds of overpayments under § 28-43-13, as of the date refunded;

9 (ii) For benefit years beginning subsequent to September 30, 1993, an amount equal to
10 the benefits provided in §§ 28-44-6(a) and (b), 28-44-7, and 28-44-8, and paid to each individual
11 with respect to a benefit year, as of the date paid. Those benefits shall be charged to the account
12 of the most recent base period employer, as defined in § 28-43-1(7); provided, that if a claimant
13 works for two (2) or more employers concurrently, either full-time or part-time, and becomes
14 unemployed on the same day from more than one employer, any benefits paid as a result of the
15 unemployment shall be charged to the employers' accounts proportionately based upon the ratio
16 of base period wages paid by each employer to the total base period wages paid by the concurrent
17 employers from whom the claimant became separated from employment. No charge for benefits
18 paid under § 28-44-7 shall be made against the account of any employer who shows to the
19 satisfaction of the director that he or she has continued to employ the individual during the weeks
20 of his or her claim to the same extent that he or she had employed him or her during that
21 individual's base period, and those benefits, if not chargeable to the most recent base period
22 employer, shall be charged to the balancing account.

23 (iii) If any base period employer, whether or not he or she was the most recent, shows to
24 the satisfaction of the director that the individual who is in receipt of benefits became separated
25 from his or her last employment with that employer for reasons which did result or would have
26 resulted in a disqualification under § 28-44-17 or 28-44-18 had that base period employer been
27 his or her most recent, those benefits shall be charged to the balancing account.

28 (iv) The entire amount charged to the employer's account under § 28-43-9 relating to the
29 balancing rate.

30 (v) Whenever the provisions in this section specify that an employer's account shall not
31 be charged, that non-charging shall be limited to benefits paid based on service with an employer
32 required to pay contributions under the provisions of chapters 42 -- 44 of this title.

33 (vi) An amount equal to the benefits provided in § 28-44-62 and paid to each individual
34 with respect to a benefit year as of the date paid minus the proportionate share of those benefits

1 for which the state has been or will be reimbursed by the federal government. The federal share of
2 any payments shall be charged to the balancing account and federal reimbursements shall be
3 credited to the balancing account.

4 (vii) Whenever any benefits are paid for benefit years beginning subsequent to July 7,
5 1996 to an individual unemployed as a result of physical damage to the real property at the
6 employer's usual place of business caused by severe weather conditions, including, but not
7 limited to, hurricanes, snowstorms, ice storms or flooding, or fire except where caused by the
8 employer, those benefits shall be charged to the balancing account.

9 (viii) An employer's account shall not be relieved of charges relating to any benefits
10 payments made if the director establishes on or after October 1, 2013 that the payment was made
11 because the employer, or an agent of the employer, was at fault for failing to respond timely or
12 adequately to the request of the department for information relating to the claim for
13 unemployment benefits that was subsequently overpaid.

14 SECTION 2. Chapter 28-43 of the General Laws entitled "Employment Security -
15 Contributions" is hereby amended by adding thereto the following section:

16 **28-43-5.1. Employer's account - Voluntary contributions.** -- Any employer who has
17 been assigned an experience rate, and who has filed all reports required under chapters 42 through
18 44 of this title, and has paid all contributions, interest and penalties due under chapters 42 through
19 44 of this title, may make a voluntary contribution to his or her account. Such voluntary
20 contribution shall be paid not later than thirty (30) days after the date on which the department
21 has issued a notice of the employer's experience rate, or prior to the expiration of one hundred
22 twenty (120) days after the start of the calendar year, for which the experience rate is effective,
23 whichever is earlier. Upon timely payment of a voluntary contribution, the contribution shall be
24 credited to the employer's account balance, and that employer shall receive a recomputation of its
25 experience rate for that calendar year. No voluntary contribution shall be refunded in whole or in
26 part.

27 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO LABOR AND LABOR RELATIONS - EMPLOYMENT SECURITY -
VOLUNTARY CONTRIBUTIONS

- 1 This act would allow employers to make voluntary contributions to their unemployment
- 2 account, in order to lower their unemployment insurance tax rate for the following calendar year.
- 3 This act would take effect upon passage.

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