WEST VIRGINIA CODE: §21A-8A-8

§21A-8A-8. Assessments; dedication of assessments; commissioner's authority to adjust assessments.

(a) On and after July 1, 1987, every employer, contributing and reimbursable, subject to this chapter, shall be required to withhold from all persons in his employment an assessment which shall be in an amount not to exceed thirty-five one hundredths (35/100) of one percent of said employee's gross wages, which amount, together with an assessment contributed by the employer in an amount as determined in accordance with the provisions of subsection (b) of this section, except for reimbursable employers who shall not be assessed, shall be paid to the division of employment security on a form prescribed by the commissioner, at the same time and under the same conditions as the quarterly contribution payments required under the provisions of section seven, article five, chapter twenty-one-a of this code. The commissioner shall have the right to collect any delinquent assessments under this section in the same manner as provided for in section sixteen, article five, chapter twenty-one-a of this code; and in addition, any delinquency hereunder shall bear interest as set forth in section seventeen, article five, chapter twenty-one-a of this code.

(b) The commissioner shall establish the exact amounts of the employers' and employees' assessments at a level sufficient to generate the revenues needed to retire the bonds or notes issued pursuant to this article and to pay deferred interest owed to the federal government when due, subject only to the limitation established in the preceding subsection (a) of this section. After determining the level of assessment on the gross wages of employees, the commissioner shall determine a rate of assessment to be imposed upon employers, except reimbursable employers, which rate shall be expressed as a percentage of wages, as defined in section three, article one of this chapter, except that for purposes of this section such wages shall include all of that part of the remuneration paid to an employee that is less than $21,000 during any calendar year, and which is sufficient to cause the total statewide assessment on such employers to equal the total statewide assessment imposed upon employees.

(c) The proceeds derived from the assessments provided for in this section shall be placed in the special nonrevolving revenue funds established pursuant to the provisions of section two of this article to be held by the commissioner separate and apart from all other funds and accounts created under this chapter and the funds, together with the interest derived therefrom, shall be pledged and utilized only for the repayment of bonds or notes issued under the provisions of this article and the payment of deferred interest owed to the federal government as the same becomes due. At such time as there are no longer any bonds, notes or other evidences of indebtedness outstanding which are payable from the special nonrevolving revenue funds, any remaining balance in these special accounts shall be paid into the unemployment compensation trust fund. The commissioner may establish additional special accounts and subaccounts with the employment security administration fund for the

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purpose of identifying more precisely the sources of payments into and disbursements from the employment security administration fund.

(d) Prior to the beginning of any quarter during which bonds or notes authorized by this article will be outstanding, the commissioner may adjust the amount of the assessment set forth in subsection (a) of this section; however, the amount is never to exceed thirty-five one hundredths (35/100) of one percent of each said employee's gross wages. The assessment shall cease when all the bonds or notes are repaid.

(e) Any employer or corporate officer if employer is a corporation, who fails to remit to the division of employment security the assessments provided for under this section shall be guilty of a felony and, upon conviction, shall be punished by a fine of not less than $5,000 nor more than $10,000, or by imprisonment of not less than one year, or both.

WV Legislature