

Senate Engrossed House Bill

**FILED**

**KEN BENNETT**

**SECRETARY OF STATE**

State of Arizona  
House of Representatives  
Fifty-first Legislature  
First Regular Session  
2013

CHAPTER 204

# **HOUSE BILL 2173**

AN ACT

AMENDING TITLE 23, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.1; AMENDING SECTIONS 23-727, 23-762, 23-763, 23-771, 23-772, 23-787 AND 29-857, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF TITLE 23, CHAPTER 4, ARTICLE 2.1, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO EMPLOYMENT SECURITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 23, chapter 4, Arizona Revised Statutes, is amended  
3 by adding article 2.1, to read:

4 ARTICLE 2.1. UNEMPLOYMENT INSURANCE TAX ANTICIPATION NOTES  
5 23-665. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "DIRECTOR" MEANS THE DIRECTOR OF THE DEPARTMENT.

8 2. "NOTE" MEANS A NOTE ISSUED PURSUANT TO THIS ARTICLE.

9 3. "NOTE DEBT SERVICE FUND" MEANS THE FUND ESTABLISHED AND  
10 ADMINISTERED PURSUANT TO SECTION 23-665.03.

11 4. "NOTE RELATED EXPENSES" MEANS ANY EXPENSES INCURRED BY THE DIRECTOR  
12 TO ISSUE AND ADMINISTER THE NOTES INCLUDING UNDERWRITING FEES AND COSTS,  
13 TRUSTEE FEES, FINANCIAL CONSULTANT FEES, PRINTING AND ADVERTISING COSTS,  
14 PAYING AGENT FEES, TRANSFER AGENT FEES, LEGAL, ACCOUNTING, FEASIBILITY  
15 CONSULTANT AND OTHER PROFESSIONAL FEES AND EXPENSES, NOTE INSURANCE OR OTHER  
16 CREDIT ENHANCEMENTS OR LIQUIDITY FACILITIES, ATTORNEY AND ACCOUNTING FEES AND  
17 EXPENSES RELATED TO CREDIT ENHANCEMENT, REMARKETING FEES, RATING AGENCY FEES  
18 AND COSTS, TRAVEL AND TELECOMMUNICATIONS EXPENSES AND ALL OTHER FEES  
19 CONSIDERED NECESSARY BY THE DIRECTOR TO MARKET AND ADMINISTER THE NOTES.

20 5. "UNEMPLOYMENT SPECIAL ASSESSMENT FUND" MEANS THE FUND ESTABLISHED  
21 PURSUANT TO SECTION 23-665.02.

22 23-665.01. Authorization of unemployment insurance tax  
23 anticipation notes

24 A. THE DIRECTOR MAY ISSUE UNEMPLOYMENT INSURANCE TAX ANTICIPATION  
25 NOTES PURSUANT TO THIS ARTICLE DURING FISCAL YEAR 2013-2014 IN AN AMOUNT NOT  
26 TO EXCEED THE LESSER OF TWO HUNDRED MILLION DOLLARS AND THE AMOUNT DETERMINED  
27 BY THE DIRECTOR TO BE SUFFICIENT TO PROVIDE MONIES TO DO ALL OF THE  
28 FOLLOWING:

29 1. REPAY THE OUTSTANDING BALANCE BORROWED FROM THE FEDERAL GOVERNMENT  
30 TO PAY UNEMPLOYMENT INSURANCE BENEFITS.

31 2. PROVIDE FOR PAYMENT OF UNEMPLOYMENT INSURANCE BENEFITS DURING  
32 FISCAL YEAR 2013-2014 UNTIL UNEMPLOYMENT INSURANCE TAX RECEIPTS ARE  
33 SUFFICIENT TO PROVIDE FOR PAYMENT OF BENEFITS.

34 3. PAY NOTE RELATED EXPENSES.

35 B. THE DIRECTOR SHALL AUTHORIZE THE ISSUANCE OF THE NOTES WITH A  
36 SIGNED DOCUMENT THAT PRESCRIBES ALL OF THE FOLLOWING:

37 1. THE FIXED OR VARIABLE RATES OF INTEREST, THE DATES ON WHICH  
38 INTEREST IS PAYABLE AND THE DENOMINATIONS OF THE NOTES.

39 2. THE DATES OF THE NOTES AND MATURITY WITHIN TWELVE MONTHS AFTER THE  
40 DATE OF ISSUANCE.

41 3. THE FORM OF THE NOTES.

42 4. THE MANNER OF EXECUTING THE NOTES.

43 5. THE MEDIUM AND PLACE OF PAYMENT.

44 6. THE TERMS OF REDEMPTION BEFORE MATURITY, INCLUDING WHETHER A  
45 PREMIUM IS PAYABLE ON EARLY REDEMPTION.

1 C. THE NOTES MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT THE PRICE AND ON  
2 THE TERMS PRESCRIBED BY THE DIRECTOR AT, ABOVE OR BELOW PAR.

3 D. THE DIRECTOR SHALL DEPOSIT THE NET PROCEEDS RECEIVED FROM THE SALE  
4 OF THE NOTES IN A SEPARATE ACCOUNT CREATED FOR THAT PURPOSE. MONIES IN THE  
5 ACCOUNT MAY BE INVESTED AS PROVIDED IN SECTION 23-665.08.

6 23-665.02. Unemployment special assessment proceeds fund

7 A. THE UNEMPLOYMENT SPECIAL ASSESSMENT PROCEEDS FUND IS ESTABLISHED  
8 AND CONSISTS OF MONIES TRANSFERRED TO THE FUND AS PROVIDED BY LAW. THE FUND  
9 SHALL BE KEPT SEPARATE FROM ALL OTHER MONIES OF THIS STATE. THE DEPARTMENT  
10 SHALL ADMINISTER THE FUND. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED  
11 FOR THE PURPOSES PRESCRIBED IN THIS SECTION AND ARE EXEMPT FROM THE  
12 PROVISIONS OF SECTION 35-190, RELATING TO THE LAPSING OF APPROPRIATIONS.

13 B. NOTWITHSTANDING ANY OTHER LAW, IF THIS STATE HAS AN OUTSTANDING  
14 LOAN TO PAY UNEMPLOYMENT INSURANCE BENEFITS TO ELIGIBLE CLAIMANTS, FUND  
15 MONIES SHALL BE:

16 1. USED TO PAY INTEREST CHARGES INCURRED ON THE LOAN.

17 2. AFTER PAYMENTS PURSUANT TO PARAGRAPH 1 OF THIS SUBSECTION, USED TO  
18 RETIRE THE LOAN PRINCIPAL OR, IF THE DIRECTOR HAS ISSUED NOTES PURSUANT TO  
19 THIS ARTICLE, TRANSFERRED TO THE NOTE DEBT SERVICE FUND AS PRESCRIBED IN  
20 SECTION 23-665.03.

21 C. ANY MONIES REMAINING IN THE FUND AFTER PAYMENT OF ALL PRINCIPAL AND  
22 INTEREST ON THE LOAN, INCLUDING DELINQUENT AMOUNTS COLLECTED AFTER THIS  
23 PAYMENT, AND AMOUNTS PAYABLE AS PRESCRIBED IN SECTION 23-655.03, SUBSECTION  
24 A, PARAGRAPH 2 SHALL BE TRANSFERRED TO THE UNEMPLOYMENT COMPENSATION FUND  
25 ESTABLISHED BY SECTION 23-701.

26 23-665.03. Note debt service fund

27 A. IF THE DIRECTOR ISSUES NOTES, THE DIRECTOR SHALL DO ALL OF THE  
28 FOLLOWING:

29 1. ESTABLISH A NOTE DEBT SERVICE FUND CONSISTING OF MONIES TRANSFERRED  
30 TO THE FUND PURSUANT TO LAW.

31 2. TRANSFER MONIES FROM THE UNEMPLOYMENT SPECIAL ASSESSMENT PROCEEDS  
32 FUND TO THE NOTE DEBT SERVICE FUND UNTIL THE DEBT SERVICE FUND CONTAINS  
33 MONIES SUFFICIENT TO PAY ALL INTEREST TO BECOME DUE ON THE NOTES AND NOTE  
34 RELATED EXPENSES.

35 3. TRANSFER MONIES FROM THE MONIES CREDITED TO THIS STATE'S ACCOUNT IN  
36 THE UNEMPLOYMENT TRUST FUND PURSUANT TO 42 UNITED STATES CODE SECTION 1103 TO  
37 THE NOTE DEBT SERVICE FUND IN AN AMOUNT SUFFICIENT TO REPAY ALL UNPAID  
38 PRINCIPAL OF THE NOTES.

39 B. MONIES IN THE NOTE DEBT SERVICE FUND MAY BE USED ONLY TO PAY  
40 AMOUNTS PAYABLE ON NOTES AND NOTE RELATED EXPENSES AS THEY BECOME DUE.

41 C. THE DEPARTMENT SHALL ADMINISTER AND ACCOUNT FOR THE NOTE DEBT  
42 SERVICE FUND.

43 D. ON THE PAYMENT OF ALL AMOUNTS DUE AND TO BECOME DUE ON THE NOTES  
44 AND THE PAYMENT OF ALL NOTE RELATED EXPENSES, ANY AMOUNTS REMAINING IN THE

1 NOTE DEBT SERVICE FUND SHALL BE TRANSFERRED TO THE UNEMPLOYMENT COMPENSATION  
2 FUND ESTABLISHED BY SECTION 23-701.

3 23-665.04. Securing principal and interest; refunding notes

4 TO SECURE THE PRINCIPAL AND INTEREST ON NOTES, THE DIRECTOR MAY:

5 1. SEGREGATE THE NOTE DEBT SERVICE FUND INTO ONE OR MORE ACCOUNTS AND  
6 SUBACCOUNTS AND PROVIDE THAT NOTES MAY BE SECURED BY A LIEN ON ALL OR PART OF  
7 THE MONIES PAID TO THE NOTE DEBT SERVICE FUND OR TO ANY ACCOUNT OR SUBACCOUNT  
8 IN THE FUND.

9 2. PROVIDE THAT THE NOTES ARE SECURED BY A FIRST LIEN ON THE MONIES  
10 PAID INTO THE NOTE DEBT SERVICE FUND AS PROVIDED IN THIS ARTICLE AND PLEDGE  
11 AND ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDERS OF THE NOTES ALL OR  
12 PART OF THE MONIES IN THE NOTE DEBT SERVICE FUND OR IN ANY ACCOUNT OR  
13 SUBACCOUNT IN THE FUND AS IS NECESSARY TO SECURE AND PAY THE PRINCIPAL, THE  
14 INTEREST AND ANY PREMIUM ON THE NOTES AS THEY COME DUE.

15 3. ESTABLISH PRIORITIES AMONG NOTEHOLDERS BASED ON CRITERIA ADOPTED BY  
16 THE DIRECTOR.

17 4. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING ACCOUNTS.

18 5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT  
19 WITH NOTEHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF NOTES THE HOLDERS  
20 OF WHICH MUST CONSENT TO AN AMENDMENT OR ABROGATION AND THE MANNER IN WHICH  
21 THE CONSENT MAY BE GIVEN.

22 6. PROVIDE FOR PAYMENT OF NOTE RELATED EXPENSES FROM THE PROCEEDS OF  
23 THE SALE OF THE NOTES OR OTHER SOURCES AUTHORIZED BY THIS ARTICLE AND  
24 AVAILABLE TO THE DIRECTOR.

25 7. PROVIDE FOR THE SERVICES OF TRUSTEES, AGENTS AND CONSULTANTS AND  
26 OTHER SPECIALIZED SERVICES WITH RESPECT TO THE NOTES.

27 8. TAKE ANY OTHER ACTION THAT MAY AFFECT THE SECURITY AND PROTECTION  
28 OF THE NOTES OR INTEREST ON THE NOTES.

29 9. REFUND ANY NOTES ISSUED BY THE DIRECTOR BY ISSUING NEW NOTES, IF  
30 THESE NEW NOTES ARE SECURED BY AND PAYABLE FROM A SOURCE OF REVENUES  
31 AUTHORIZED BY THIS ARTICLE.

32 10. ISSUE NOTES PARTLY TO REFUND OUTSTANDING NOTES AND PARTLY FOR ANY  
33 OTHER PURPOSE CONSISTENT WITH THIS ARTICLE.

34 23-665.05. Lien of pledge

35 A. A PLEDGE MADE UNDER THIS ARTICLE IN CONNECTION WITH THE NOTES IS  
36 VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE.

37 B. THE MONIES DEPOSITED IN THE NOTE DEBT SERVICE FUND ARE IMMEDIATELY  
38 SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR  
39 FURTHER ACT. ANY LIEN OF ANY PLEDGE IS VALID AND BINDING AGAINST ALL PARTIES  
40 THAT HAVE CLAIMS OF ANY KIND AGAINST THIS STATE, REGARDLESS OF WHETHER THE  
41 PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL INSTRUMENT BY WHICH A PLEDGE  
42 IS CREATED, WHEN ADOPTED BY THE DIRECTOR, IS NOTICE TO ALL CONCERNED OF THE  
43 CREATION OF THE PLEDGE, AND THE INSTRUMENT NEED NOT BE RECORDED IN ANY OTHER  
44 PLACE TO PERFECT THE PLEDGE.





1 SERVICE SCHEDULE, THE LENGTH OF TERM, THE INTEREST TO BE PAID OVER THE LIFE  
2 OF THE LOAN AND THE STATUS OF THE BONDS AS TAXABLE OR NON-TAXABLE.

3 B. THIRTY DAYS AFTER THE END OF EACH CALENDAR QUARTER OF FISCAL YEAR  
4 2013-2014, THE DEPARTMENT SHALL REPORT TO THE DIRECTORS OF THE JOINT  
5 LEGISLATIVE BUDGET COMMITTEE AND THE GOVERNOR'S OFFICE OF STRATEGIC PLANNING  
6 AND BUDGETING CONCERNING THE STATUS OF THE UNEMPLOYMENT INSURANCE SYSTEM.  
7 EACH QUARTERLY REPORT SHALL INCLUDE THE BEGINNING BALANCE IN THIS STATE'S  
8 ACCOUNT IN THE UNEMPLOYMENT TRUST FUND PURSUANT TO 42 UNITED STATES CODE  
9 SECTION 1103, REVENUE DURING THE YEAR, NET ASSESSMENT REVENUE, FEDERAL  
10 UNEMPLOYMENT TAX REDUCTION REVENUE, FUND OUTLAYS, THE ENDING BALANCE,  
11 INTEREST CHARGES ON THE LOAN, AND ANY OUTSTANDING FEDERAL DEBT. EACH REPORT  
12 SHALL ALSO PROVIDE QUARTERLY ESTIMATES FOR EACH OF THESE CATEGORIES THROUGH  
13 THE FINAL QUARTER OF CALENDAR YEAR 2014.

14 Sec. 2. Section 23-727, Arizona Revised Statutes, is amended to read:  
15 23-727. Credits and charges to employer accounts

16 A. The commission shall maintain a separate account for each employer  
17 and shall credit the account with all contributions and payments in lieu of  
18 contributions paid by the employer and shall charge the account with all  
19 benefits chargeable to it.

20 B. Nothing in this chapter shall be construed to grant any employer or  
21 individuals in its service prior claims or rights to the amounts paid by the  
22 employer into the fund.

23 C. Except as otherwise provided in subsections D, E, F, G, I and J of  
24 this section and sections 23-773 and 23-777, benefits paid to an individual  
25 shall be charged against the accounts of the individual's base-period  
26 employers. The amount of benefits so chargeable against each base-period  
27 employer's account shall bear the same ratio to the total benefits paid to an  
28 individual as the base-period wages paid to the individual by the employer  
29 bear to the total amount of base-period wages paid to the individual by all  
30 the individual's base-period employers.

31 D. Benefits paid to an individual whose separation from work with any  
32 employer occurs under conditions found by the commission to be within those  
33 prescribed by section 23-775, paragraph 1 or 2 or for compelling personal  
34 reasons not attributable to the employer and not warranting disqualification  
35 for benefits shall not be used as a factor in determining the future  
36 contribution rate of the employer from whose employment the individual so  
37 separated, but the employer shall establish the condition of such separation  
38 to the satisfaction of the commission by submitting information the  
39 commission requires within ten days after the date of notification or mailing  
40 of notice by the commission that the individual has first filed a claim for  
41 benefits.

42 E. Benefits paid to an individual who, during the individual's base  
43 period, earned wages for part-time employment with an employer shall not be  
44 used as a factor in determining the future contribution rate of that employer  
45 if the employer continues to give employment opportunities to the individual

1 to the same extent while the individual is receiving benefits as during the  
2 base period and the employer submits information the commission may require  
3 within ten working days after the date of notification or mailing of notice  
4 by the commission that the individual has first filed a claim for benefits.  
5 The commission has the burden of proof to establish that the employer failed  
6 to give employment opportunities to the individual to the same extent as  
7 during the base period.

8 F. Benefits paid to an individual whose employment was terminated by  
9 retirement pursuant to a nongovernmental retirement or lump sum retirement  
10 pay plan under which the age of mandatory retirement has been agreed on  
11 between the employer and its employees or by the bargaining agent  
12 representing such employees shall not be used as a factor in determining the  
13 future contribution rate of that employer but the employer shall establish  
14 that fact by submitting information the commission may require within ten  
15 days after the date of notification or mailing of notice by the commission  
16 that the individual has first filed a claim for benefits.

17 G. Benefits paid pursuant to section 23-771, subsections B and D shall  
18 not be used as a factor in determining the future contribution rate of the  
19 affected base-period employers.

20 H. A determination that benefits paid shall be used in determining  
21 future contribution rates of the employer may be appealed by the employer in  
22 the same manner provided for appeals of benefit determinations.

23 I. Benefits paid to an individual whose employment was terminated  
24 because the individual's employer was called to active duty in the military  
25 shall not be used as a factor in determining the future contribution rate of  
26 the employer from whose employment the individual was terminated.

27 J. Benefits paid to an individual whose employment was terminated  
28 because a former employee of the employer returned to work for the employer  
29 after being called to active duty in the military shall not be used as a  
30 factor in determining the future contribution rate of the employer from whose  
31 employment the individual was terminated.

32 K. THE COMMISSION SHALL NOT RELIEVE AN EMPLOYER'S ACCOUNT OF CHARGES  
33 RELATING TO AN ERRONEOUS BENEFIT PAYMENT IF THE COMMISSION DETERMINES BOTH OF  
34 THE FOLLOWING:

35 1. THE ERRONEOUS BENEFIT PAYMENT WAS MADE BECAUSE THE EMPLOYER OR AN  
36 AGENT OF THE EMPLOYER FAILED TO TIMELY OR ADEQUATELY RESPOND TO A WRITTEN  
37 REQUEST FROM THE COMMISSION FOR INFORMATION RELATING TO A CLAIM FOR  
38 UNEMPLOYMENT COMPENSATION.

39 2. THE EMPLOYER OR THE EMPLOYER'S AGENT HAS ESTABLISHED A PATTERN OF  
40 FAILING TO TIMELY OR ADEQUATELY RESPOND TO REQUESTS.

41 L. FOR THE PURPOSES OF SUBSECTION K OF THIS SECTION:

42 1. "ERRONEOUS BENEFIT PAYMENT" MEANS A PAYMENT THAT WOULD NOT HAVE  
43 BEEN MADE BUT FOR THE FAILURE OF THE EMPLOYER OR THE EMPLOYER'S AGENT TO MAKE  
44 A TIMELY OR ADEQUATE RESPONSE AS DESCRIBED IN SUBSECTION K, PARAGRAPH 1 OF  
45 THIS SECTION IN REGARD TO THE CLAIM FOR UNEMPLOYMENT COMPENSATION.

1           2. "PATTERN OF FAILING" MEANS THE REPEATED DOCUMENTED FAILURE OF AN  
2 EMPLOYER OR EMPLOYER'S AGENT TO MAKE TIMELY AND ADEQUATE RESPONSES AS  
3 DESCRIBED IN SUBSECTION K, PARAGRAPH 1 OF THIS SECTION WITH CONSIDERATION OF  
4 THE NUMBER OF INSTANCES OF FAILURE IN RELATION TO THE TOTAL NUMBER OF  
5 REQUESTS. PATTERN OF FAILING SHALL BE DETERMINED BY REVIEWING THE MOST  
6 IMMEDIATE TWELVE MONTH PRIOR PERIOD. A PATTERN SHALL BE ESTABLISHED IF THE  
7 EMPLOYER OR THE AGENT REPRESENTING THE EMPLOYER HAS FIVE OR MORE FAILURES OR  
8 FAILURES IN MORE THAN FIVE PER CENT OF THE NUMBER OF REQUESTS, WHICHEVER IS  
9 GREATER. WHEN AN AGENT IS REPRESENTING THE EMPLOYER, THE FIVE OR MORE  
10 FAILURES OR FAILURES IN MORE THAN FIVE PER CENT OF THE NUMBER OF REQUESTS  
11 SHALL BE SPECIFIC TO THE INDIVIDUAL EMPLOYER'S ACCOUNT.

12           Sec. 3. Section 23-762, Arizona Revised Statutes, is amended to read:  
13           23-762. Requirements of shared work plan; approval

14           A. An employer wishing to participate in the shared work unemployment  
15 compensation program shall submit a signed, written shared work plan to the  
16 department for approval. The department shall approve a shared work plan  
17 only if the plan:

18           1. Specifies the employees in the affected group.

19           2. Applies to only one affected group.

20           3. IF FEASIBLE, INCLUDES A DESCRIPTION OF THE EMPLOYER'S PLAN FOR  
21 NOTIFYING AN EMPLOYEE WHOSE WORK WEEK IS TO BE REDUCED.

22           ~~3.~~ 4. Includes a certified statement by the employer that, for the  
23 six-month period immediately preceding the date the plan is submitted,  
24 compensation was payable from the shared work employer, or its predecessor  
25 PREDECESSORS whether or not they were shared work employers, to each employee  
26 in the affected group in an amount equal to or greater than the wages for  
27 insured work in one calendar quarter as provided in section 23-771,  
28 subsection A, paragraph 6. An employee who joins an affected group after the  
29 approval of the shared work plan is automatically covered under the  
30 previously approved plan, effective the week that the department receives  
31 written notice from the shared work employer that the employee has joined and  
32 certification from the employer that the employee meets the provisions of  
33 section 23-771, subsection A, paragraph 6.

34           ~~4.~~ 5. Includes a certified statement by the employer that for the  
35 duration of the plan the reduction in the total normal weekly hours of work  
36 of the employees in the affected group is instead of layoffs which otherwise  
37 would result in at least as large a reduction in the total normal weekly  
38 hours of work. THE EMPLOYER SHALL INCLUDE AN ESTIMATE OF THE NUMBER OF  
39 LAYOFFS THAT WOULD HAVE OCCURRED WITHOUT AN APPROVED SHARED WORK PLAN.

40           ~~5.~~ 6. Specifies the manner in which the employer will treat fringe  
41 benefits of the employees in the affected group if the employees' hours are  
42 reduced to less than their normal weekly hours of work. THE EMPLOYER MUST  
43 CERTIFY, IF THE EMPLOYER PROVIDES HEALTH BENEFITS AND RETIREMENT BENEFITS  
44 UNDER A DEFINED BENEFIT PLAN TO ANY EMPLOYEE WHOSE WORK WEEK IS REDUCED UNDER  
45 THE PLAN, THAT THESE BENEFITS WILL CONTINUE TO BE PROVIDED TO AN EMPLOYEE

1 PARTICIPATING IN THE SHARED WORK PLAN UNDER THE SAME TERMS AND CONDITIONS AS  
2 THOUGH THE WORK WEEK OF THE EMPLOYEE HAD NOT BEEN REDUCED OR TO THE SAME  
3 EXTENT AS OTHER EMPLOYEES NOT PARTICIPATING IN THE SHARED WORK PROGRAM.

4 ~~6.~~ 7. Specifies an expiration date ~~which~~ THAT is no more than one  
5 year from the date the employer submits the plan for approval, except that on  
6 written request by the employer, the department may approve an extension of  
7 the plan for a period of not more than one year from the date of the request.

8 ~~7.~~ 8. Is approved in writing by the collective bargaining agent for  
9 each collective bargaining agreement ~~which~~ THAT covers any employee in the  
10 affected group.

11 B. THE PLAN PRESCRIBED IN SUBSECTION A OF THIS SECTION AND THE  
12 IMPLEMENTATION OF THE PLAN MUST BE CONSISTENT WITH THE EMPLOYER'S OBLIGATIONS  
13 UNDER ALL OTHER FEDERAL AND STATE LAWS.

14 ~~B.~~ C. The department shall approve or disapprove the ~~proposal~~ PLAN  
15 within fifteen days ~~of~~ AFTER receipt of the ~~proposal~~ PLAN by the  
16 department. The department shall notify the employer of the reasons for  
17 denial of a shared work plan within ten days of ~~such~~ THE determination.

18 Sec. 4. Section 23-763, Arizona Revised Statutes, is amended to read:

19 23-763. Shared work benefits; eligibility; requirements

20 A. An individual is eligible to receive shared work benefits with  
21 respect to any week only if, in addition to meeting the requirements of  
22 article 6 of this chapter as modified by ~~subsections D and~~ SUBSECTION E of  
23 this section, the department finds that DURING THE WEEK:

24 1. ~~During the week~~ The individual is employed as a member of an  
25 affected group in an approved plan ~~which~~ THAT was approved ~~prior to~~ BEFORE  
26 the week and is in effect for the week.

27 2. ~~During the week~~ The individual's normal weekly hours of work were  
28 reduced at least ten per cent but not more than forty per cent.

29 3. THE INDIVIDUAL MET THE REQUIREMENTS OF SECTION 23-771, SUBSECTION  
30 A, PARAGRAPHS 3 AND 4.

31 B. ELIGIBLE INDIVIDUALS MAY PARTICIPATE IN TRAINING TO ENHANCE JOB  
32 SKILLS, INCLUDING EMPLOYER SPONSORED TRAINING OR WORKER TRAINING FUNDED UNDER  
33 THE WORKFORCE INVESTMENT ACT OF 1998, IF THE TRAINING IS APPROVED BY THE  
34 DEPARTMENT.

35 ~~B.~~ C. The department shall not pay an individual shared work benefits  
36 for more than twenty-six weeks in a benefit year, except that this limitation  
37 does not apply to a week if for the period consisting of the week and the  
38 immediately preceding twelve weeks the rate, not seasonally adjusted, of  
39 insured unemployment in this state is equal to or greater than four per cent.

40 ~~C.~~ D. The total amount of regular benefits and shared work benefits  
41 ~~which~~ THAT the department pays to an individual for weeks in ~~his~~ THE  
42 INDIVIDUAL'S benefit year shall not exceed the total for the benefit year as  
43 provided in section 23-780.

44 ~~D.~~ The department shall not deny an otherwise eligible individual  
45 benefits under this article because of the application of any provision of

1 ~~this chapter relating to availability for work, active search for work or~~  
2 ~~refusal to apply for or accept work from other than the individual's shared~~  
3 ~~work employer.~~

4 E. Notwithstanding section 23-621 or any other provision of this  
5 chapter, for purposes of this article an individual is unemployed in any week  
6 for which compensation is payable to him THE INDIVIDUAL, as an employee in an  
7 affected group, for less than his THE INDIVIDUAL'S normal weekly hours of  
8 work in accordance with an approved plan in effect for the week.

9 Sec. 5. Section 23-771, Arizona Revised Statutes, is amended to read:

10 23-771. Eligibility for benefits

11 A. An unemployed individual shall be eligible to receive benefits with  
12 respect to any week only if the department finds that the individual:

13 1. Has registered for work at and thereafter has continued to report  
14 at an employment office in accordance with such regulations as the department  
15 prescribes.

16 2. Has made a claim for benefits in accordance with section 23-772.

17 3. Is able to work.

18 4. EXCEPT FOR AN INDIVIDUAL WHO IS APPLYING FOR SHARED WORK BENEFITS  
19 PURSUANT TO ARTICLE 5.1 OF THIS CHAPTER, is available for work and both of  
20 the following apply:

21 (a) The individual has engaged in a systematic and sustained effort to  
22 obtain work during at least four days of the week.

23 (b) The individual has made at least three work search contacts during  
24 the week.

25 5. Has been unemployed for a waiting period of one week. A week shall  
26 not be counted as a week of unemployment for the purpose of this paragraph:

27 (a) Unless it occurs within the benefit year that includes the week  
28 with respect to which the individual claims payment of benefits.

29 (b) Unless the individual was eligible for benefits with respect  
30 thereto as provided in this section and sections 23-775, 23-776 and 23-777.

31 (c) If benefits have been paid in respect thereto.

32 6. Has met one of the following requirements:

33 (a) Has been paid wages for insured work during the individual's base  
34 period equal to at least one and one-half times the wages paid to the  
35 individual in the calendar quarter of the individual's base period in which  
36 such wages were highest, and the individual has been paid wages for insured  
37 work in one calendar quarter of the individual's base period equal to an  
38 amount that is equal to at least three hundred ninety times the minimum wage  
39 prescribed by section 23-363 that is in effect when the individual files a  
40 claim for benefits.

41 (b) Has for a benefit year beginning on or after September 2, 1984,  
42 been paid wages for insured work during at least two quarters of the  
43 individual's base period and the amount of such wages paid in one quarter  
44 would be sufficient to qualify the individual for the maximum weekly benefit  
45 amount payable under this chapter and the total of the individual's

1 base-period wages is equal to or greater than the taxable limit as specified  
2 in section 23-622, subsection B, paragraph 1.

3 7. Following the beginning date of a benefit year established under  
4 this chapter or the unemployment compensation law of any other state and  
5 prior to the effective date of a subsequent benefit year under this chapter,  
6 has performed services whether or not in employment as defined in section  
7 23-615 for which wages were payable in an amount equal to or in excess of  
8 eight times the weekly benefit amount for which the individual is otherwise  
9 qualified under section 23-779. In making a determination under this  
10 paragraph the department shall use information available in its records or  
11 require the individual to furnish necessary information within thirty days  
12 from the date notice is given that such information is required.

13 B. If an unemployed individual cannot establish a benefit year as  
14 defined in section 23-609 due to receipt during the base period of  
15 compensation for a temporary total disability pursuant to chapter 6 of this  
16 title, or any similar federal law, the individual's base period shall be the  
17 first four of the last five completed calendar quarters immediately preceding  
18 the first day of the calendar week in which the disability began. Wages  
19 previously used to establish a benefit year may not be reused. This  
20 subsection does not apply unless all of the following occur:

21 1. The individual has filed a claim for benefits not later than the  
22 fourth calendar week of unemployment after the end of the period of  
23 disability.

24 2. The claim is filed within two years after the period of disability  
25 begins.

26 3. The individual meets the requirements of subsection A of this  
27 section.

28 4. The individual has attempted to return to the employment where the  
29 temporary total disability occurred.

30 C. If an unemployed individual is a member of the national guard or  
31 other reserve component of the United States armed forces, the individual  
32 shall not be considered to be either employed or unavailable for work by  
33 reason of the individual's participation in drill, training or other national  
34 guard or reserve activity that occurs on not more than one weekend per month  
35 or in lieu of a weekend drill or the equivalent.

36 D. The department shall not disqualify an individual from receiving  
37 benefits under this chapter on the basis of the individual's separation from  
38 employment if the individual is a victim of domestic violence and leaves  
39 employment due to a documented case involving domestic violence pursuant to  
40 section 13-3601 or 13-3601.02. Benefits paid to an individual pursuant to  
41 this subsection shall not be charged against an employer's account pursuant  
42 to section 23-727, subsection G.

43 E. For the purposes of subsection A, paragraph 6 of this section,  
44 wages shall be counted as "wages for insured work" for benefit purposes with  
45 respect to any benefit year only if that benefit year begins subsequent to

1 the date on which the employing unit by which those wages were paid has  
2 become an employer subject to this chapter.

3 Sec. 6. Section 23-772, Arizona Revised Statutes, is amended to read:

4 23-772. Claims for benefits; notice to employer; posting  
5 printed statements dealing with claims

6 A. Claims for benefits shall be made in accordance with such  
7 regulations as the department prescribes.

8 B. All ~~base-period~~ BASE-PERIOD employers of a claimant for benefits  
9 shall be promptly notified when a claimant files an ~~initial~~ A PAYABLE  
10 CONTINUED claim for benefits during a period of unemployment.

11 C. Each employer shall post and maintain printed statements dealing  
12 with claims for benefits in places readily accessible to individuals in ~~his~~  
13 THE EMPLOYER'S service, and shall make available to each individual at the  
14 time ~~he~~ THE INDIVIDUAL becomes unemployed, a printed statement dealing with  
15 claims for benefits. Printed statements shall be supplied by the department  
16 to each employer without cost.

17 Sec. 7. Section 23-787, Arizona Revised Statutes, is amended to read:

18 23-787. Repayment of and deductions for benefits obtained by  
19 claimants not entitled to benefits; collection

20 A. A person who receives any amount as benefits under this chapter to  
21 which the person is not entitled is liable to repay the overpaid amount to  
22 the department. The department may deduct all or a portion of the  
23 overpayment from future benefits payable to the person under this chapter.

24 B. If benefits to which a person is not entitled are received by  
25 reason of fraud COMMITTED BY THE PERSON as determined by the department, THE  
26 DEPARTMENT SHALL ASSESS A PENALTY ON THE PERSON EQUAL TO FIFTEEN PER CENT OF  
27 THE AMOUNT OF THE ERRONEOUS PAYMENT AND the person is not eligible to receive  
28 any benefits under this chapter until the total amount of the overpayment has  
29 been recovered or otherwise satisfied in compliance with a civil judgment.  
30 THE DEPARTMENT SHALL IMMEDIATELY DEPOSIT ALL ASSESSMENTS PAID PURSUANT TO  
31 THIS SUBSECTION IN THE UNEMPLOYMENT COMPENSATION FUND ESTABLISHED BY SECTION  
32 23-701.

33 C. If benefits to which a person is not entitled are received without  
34 any fault on the person's part and if repayment or deduction from future  
35 benefits would be against equity and good conscience, the department may  
36 waive all or a portion of the amount overpaid.

37 D. If benefits to which a person is not entitled are received without  
38 any fault on the person's part, deductions made by the department pursuant to  
39 subsection A OF THIS SECTION from benefits payable to an individual for any  
40 week shall not exceed twenty-five per cent of the individual's weekly benefit  
41 amount unless required by federal law, except that the amount recouped from  
42 benefits payable may be fifty per cent of the weekly benefit amount if the  
43 individual has previously received benefits but has not received benefits for  
44 at least twelve consecutive months ~~prior to~~ BEFORE the most recent receipt of  
45 benefits and there has been no reasonable attempt to repay the indebtedness

1 during that period. The fifty per cent recoupment rate may not be put in  
2 effect ~~prior to~~ BEFORE one year after the establishment of the overpayment.

3 E. The department shall adopt rules to implement ~~the provisions of~~  
4 subsection D OF THIS SECTION.

5 F. The attorney general or the appropriate county attorney may  
6 institute appropriate court proceedings to recover in the name of the  
7 department any amount for which a person is liable to the department.

8 Sec. 8. Section 29-857, Arizona Revised Statutes, is amended to read:  
9 29-857. Taxation

10 A limited liability company established under this chapter or a foreign  
11 limited liability company transacting business in this state pursuant to this  
12 chapter shall pay the taxes that are imposed by the laws of this state or any  
13 political subdivision of this state on domestic and foreign limited  
14 partnerships on an identical basis, except that, for purposes of TITLE 23,  
15 CHAPTER 4 AND title 43, a domestic or foreign limited liability company and  
16 its members shall be taxed as if the limited liability company is either a  
17 partnership or a corporation or is disregarded as an entity as determined  
18 pursuant to the internal revenue code as defined in section 43-105.

19 Sec. 9. Transfer of monies

20 Any monies remaining in the unemployment special assessment fund  
21 established by section 23-730.01, Arizona Revised Statutes, as added by Laws  
22 2011, chapter 218, section 2 are transferred for deposit in the unemployment  
23 special assessment proceeds fund established by section 23-665.02, Arizona  
24 Revised Statutes, as added by this act.

25 Sec. 10. Delayed repeal

26 Title 23, chapter 4, article 2.1, Arizona Revised Statutes, as added by  
27 this act, is repealed from and after December 31, 2015.

28 Sec. 11. Emergency

29 This act is an emergency measure that is necessary to preserve the  
30 public peace, health or safety and is operative immediately as provided by  
31 law.

APPROVED BY THE GOVERNOR JUNE 19, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.

Passed the House March 6, 2013

Passed the Senate April 16, 2013

by the following vote: 45 Ayes,

by the following vote: 23 Ayes,

14 Nays, 1 Not Voting

6 Nays, 1 Not Voting

[Signature]  
Speaker of the House

[Signature] with Emergency  
President of the Senate

[Signature]  
Chief Clerk of the House

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

~~This Bill received by the Governor this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary to the Governor~~

Approved this \_\_\_\_\_ day of

~~\_\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Governor of Arizona~~

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

~~This Bill received by the Secretary of State  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
at \_\_\_\_\_ o'clock \_\_\_\_\_ M.  
\_\_\_\_\_  
Secretary of State~~

H.B. 2173

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

June 13, 2013,

by the following vote: 45 Ayes,

14 Nays, 1 Not Voting  
*with Emergency*

[Signature]

Speaker of the House

Cheryl Laube  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13 day of June, 2013,

at 4:45 o'clock P M.

Mikhaila Howard  
Secretary to the Governor

Approved this 19th day of

June, 2013,

at 12:44 o'clock A. M.

Janice K. Brewer  
Governor of Arizona

H.B. 2173

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of June, 2013,

at 2:05 o'clock P M.

[Signature]  
Secretary of State