



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB2539

Introduced 2/18/2005, by Rep. Cynthia Soto - Jay C. Hoffman

SYNOPSIS AS INTRODUCED:

820 ILCS 405/1500	from Ch. 48, par. 570
820 ILCS 405/1506.1	from Ch. 48, par. 576.1
820 ILCS 405/1506.3	from Ch. 48, par. 576.3
820 ILCS 405/1507	from Ch. 48, par. 577
820 ILCS 405/1507.1 new	

Amends the Unemployment Insurance Act. Provides that, if an individual or entity transfers all or a portion of its trade or business and the transferor and transferee have any material common ownership, management, or control of the trade or business, the experience rating records of the transferor and transferee shall be combined for the purpose of determining their contribution rate. Provides that, except under specified conditions, if the transferor or transferee had a contribution rate applicable to it for the calendar year in which the transfer occurred, it shall continue with that contribution rate for the remainder of the calendar year and, if the transferee had no contribution rate applicable to it for the calendar year in which the transfer occurred, the contribution rate of the transferee shall be the same as the contribution rate of the transferor for the remainder of the calendar year, subject to a rate ceiling. Provides that, if the contribution rate of the transferor immediately prior to the transfer is higher than the contribution rate of the transferee for the calendar year in which the transfer occurs, the contribution rate of the transferee shall be the same for the calendar year as the contribution rate of the transferor, subject to a rate ceiling. Provides that, if an individual or entity that is not an employer under the Act acquires the trade or business of an employing unit, the experience rating record of the acquired business shall not be transferred to the individual or entity if the Director of Employment Security finds that the individual or entity acquired the business solely or primarily to obtain a lower contribution rate. Sets forth penalties for violations. Provides that the new provisions shall be interpreted and applied to meet the minimum requirements of any guidance or regulations issued by the U.S. Department of Labor. Makes other changes.

LRB094 03707 WGH 33712 b

CORRECTIONAL
BUDGET AND
IMPACT NOTE ACT
MAY APPLY

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning unemployment insurance.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Unemployment Insurance Act is amended by
5 changing Sections 1500, 1506.1, 1506.3, and 1507 and by adding
6 Section 1507.1 as follows:

7 (820 ILCS 405/1500) (from Ch. 48, par. 570)

8 Sec. 1500. Rate of contribution.

9 A. For the six months' period beginning July 1, 1937, and
10 for each of the calendar years 1938 to 1959, inclusive, each
11 employer shall pay contributions on wages at the percentages
12 specified in or determined in accordance with the provisions of
13 this Act as amended and in effect on July 11, 1957.

14 B. For the calendar years 1960 through 1983, each employer
15 shall pay contributions equal to 2.7 percent with respect to
16 wages for insured work paid during each such calendar year,
17 except that the contribution rate of each employer who has
18 incurred liability for the payment of contributions within each
19 of the three calendar years immediately preceding the calendar
20 year for which a rate is being determined, shall be determined
21 as provided in Sections 1501 to 1507, inclusive.

22 For the calendar year 1984 and each calendar year
23 thereafter, except as provided in Section 1507.1, each employer
24 shall pay contributions at a percentage rate equal to the
25 greatest of 2.7%, or 2.7% multiplied by the current adjusted
26 State experience factor, as determined for each calendar year
27 by the Director in accordance with the provisions of Sections
28 1504 and 1505, or the average contribution rate for his major
29 classification in the Standard Industrial Code, or another
30 classification sanctioned by the United States Department of
31 Labor and prescribed by the Director by rule, with respect to
32 wages for insured work paid during such year. The Director of

1 Employment Security shall determine for calendar year 1984 and
2 each calendar year thereafter by a method pursuant to adopted
3 rules each individual employer's industrial code and the
4 average contribution rate for each major classification in the
5 Standard Industrial Code, or each other classification
6 sanctioned by the United States Department of Labor and
7 prescribed by the Director by rule. Notwithstanding the
8 preceding provisions of this paragraph, the contribution rate
9 for calendar years 1984, 1985 and 1986 of each employer who has
10 incurred liability for the payment of contributions within each
11 of the two calendar years immediately preceding the calendar
12 year for which a rate is being determined, and the contribution
13 rate for calendar year 1987 and each calendar year thereafter
14 of each employer who has incurred liability for the payment of
15 contributions within each of the three calendar years
16 immediately preceding the calendar year for which a rate is
17 being determined shall be determined as provided in Sections
18 1501 to 1507.1 ~~1507~~, inclusive. Provided, however, that the
19 contribution rate for calendar years 1989 and 1990 of each
20 employer who has had experience with the risk of unemployment
21 for at least 13 consecutive months ending June 30 of the
22 preceding calendar year shall be a rate determined in
23 accordance with this Section or a rate determined as if it had
24 been calculated in accordance with Sections 1501 through 1507,
25 inclusive, whichever is greater, except that for purposes of
26 calculating the benefit wage ratio as provided in Section 1503,
27 such benefit wage ratio shall be a percentage equal to the
28 total of benefit wages for the 12 consecutive calendar month
29 period ending on the above preceding June 30, divided by the
30 total wages for insured work subject to the payment of
31 contributions under Sections 234, 235 and 245 for the same
32 period and provided, further, however, that the contribution
33 rate for calendar year 1991 and for each calendar year
34 thereafter of each employer who has had experience with the
35 risk of unemployment for at least 13 consecutive months ending
36 June 30 of the preceding calendar year shall be a rate

1 determined in accordance with this Section or a rate determined
2 as if it had been calculated in accordance with Sections 1501
3 through 1507.1 ~~1507~~, inclusive, whichever is greater, except
4 that for purposes of calculating the benefit ratio as provided
5 in Section 1503.1, such benefit ratio shall be a percentage
6 equal to the total of benefit charges for the 12 consecutive
7 calendar month period ending on the above preceding June 30,
8 multiplied by the benefit conversion factor applicable to such
9 year, divided by the total wages for insured work subject to
10 the payment of contributions under Sections 234, 235 and 245
11 for the same period.

12 C. Except as expressly provided in this Act, the provisions
13 of Sections 1500 to 1510, inclusive, do not apply to any
14 nonprofit organization for any period with respect to which it
15 does not incur liability for the payment of contributions by
16 reason of having elected to make payments in lieu of
17 contributions, or to any political subdivision or municipal
18 corporation for any period with respect to which it is not
19 subject to payments in lieu of contributions under the
20 provisions of paragraph 1 of Section 302C by reason of having
21 elected to make payments in lieu of contributions under
22 paragraph 2 of that Section or to any governmental entity
23 referred to in clause (B) of Section 211.1. Wages paid to an
24 individual which are subject to contributions under Section
25 1405 A, or on the basis of which benefits are paid to him which
26 are subject to payment in lieu of contributions under Sections
27 1403, 1404, or 1405 B, or under paragraph 2 of Section 302C,
28 shall not become benefit wages or benefit charges under the
29 provisions of Sections 1501 or 1501.1, respectively, except for
30 purposes of determining a rate of contribution for 1984 and
31 each calendar year thereafter for any governmental entity
32 referred to in clause (B) of Section 211.1 which does not elect
33 to make payments in lieu of contributions.

34 D. If an employer's business is closed solely because of
35 the entrance of one or more of the owners, partners, officers,
36 or the majority stockholder into the armed forces of the United

1 States, or of any of its allies, or of the United Nations, and,
2 if the business is resumed within two years after the discharge
3 or release of such person or persons from active duty in the
4 armed forces, the employer will be deemed to have incurred
5 liability for the payment of contributions continuously
6 throughout such period. Such an employer, for the purposes of
7 Section 1506.1, will be deemed to have paid contributions upon
8 wages for insured work during the applicable period specified
9 in Section 1503 on or before the date designated therein,
10 provided that no wages became benefit wages during the
11 applicable period specified in Section 1503.

12 (Source: P.A. 91-342, eff. 1-1-00.)

13 (820 ILCS 405/1506.1) (from Ch. 48, par. 576.1)

14 Sec. 1506.1. Determination of Employer's Contribution
15 Rate.

16 A. The contribution rate for any calendar year prior to
17 1982 of each employer who has incurred liability for the
18 payment of contributions within each of the three calendar
19 years immediately preceding the calendar year for which a rate
20 is being determined shall be determined in accordance with the
21 provisions of this Act as amended and in effect on October 5,
22 1980.

23 B. The contribution rate for calendar years 1982 and 1983
24 of each employer who has incurred liability for the payment of
25 contributions within each of the three calendar years
26 immediately preceding the calendar year for which a rate is
27 being determined shall be the product obtained by multiplying
28 the employer's benefit wage ratio for that calendar year by the
29 adjusted state experience factor for the same year, provided
30 that:

31 1. No employer's contribution rate shall be lower than
32 two-tenths of 1 percent or higher than 5.3%; and

33 2. Intermediate contribution rates between such
34 minimum and maximum rates shall be at one-tenth of 1
35 percent intervals.

1 3. If the product obtained as provided in this
2 subsection is not an exact multiple of one-tenth of 1
3 percent, it shall be increased or reduced, as the case may
4 be, to the nearer multiple of one-tenth of 1 percent. If
5 such product is equally near to two multiples of one-tenth
6 of 1 percent, it shall be increased to the higher multiple
7 of one-tenth of 1 percent. If such product is less than
8 two-tenths of one percent, it shall be increased to
9 two-tenths of 1 percent, and if greater than 5.3%, it shall
10 be reduced to 5.3%.

11 The contribution rate of each employer for whom wages
12 became benefit wages during the applicable period specified in
13 Section 1503, but who paid no contributions upon wages for
14 insured work during such period on or before the date
15 designated in Section 1503, shall be 5.3%.

16 The contribution rate of each employer for whom no wages
17 became benefit wages during the applicable period specified in
18 Section 1503, and who paid no contributions upon wages for
19 insured work during such period on or before the date specified
20 in Section 1503, shall be 2.7 percent.

21 Notwithstanding the other provisions of this Section, no
22 employer's contribution rate with respect to calendar years
23 1982 and 1983 shall exceed 2.7 percent of the wages for insured
24 work paid by him during any calendar quarter, if such wages
25 paid during such calendar quarter total less than \$50,000.

26 C. The contribution rate for calendar years 1984, 1985 and
27 1986 of each employer who has incurred liability for the
28 payment of contributions within each of the two calendar years
29 immediately preceding the calendar year for which a rate is
30 being determined shall be the product obtained by multiplying
31 the employer's benefit wage ratio for that calendar year by the
32 adjusted state experience factor for the same year, provided
33 that:

34 1. An employer's minimum contribution rate shall be the
35 greater of: .2%; or, the product obtained by multiplying
36 .2% by the adjusted state experience factor for the

1 applicable calendar year.

2 2. An employer's maximum contribution rate shall be the
3 greater of 5.5% or the product of 5.5% and the adjusted
4 State experience factor for the applicable calendar year
5 except that such maximum contribution rate shall not be
6 higher than 6.3% for calendar year 1984, nor be higher than
7 6.6% or lower than 6.4% for calendar year 1985, nor be
8 higher than 6.7% or lower than 6.5% for calendar year 1986.

9 3. If any product obtained in this subsection is not an
10 exact multiple of one-tenth of one percent, it shall be
11 increased or reduced, as the case may be to the nearer
12 multiple of one-tenth of one percent. If such product is
13 equally near to two multiples of one-tenth of one percent,
14 it shall be increased to the higher multiple of one-tenth
15 of one percent.

16 4. Intermediate rates between such minimum and maximum
17 rates shall be at one-tenth of one percent intervals.

18 The contribution rate of each employer for whom wages
19 became benefit wages during the applicable period specified in
20 Section 1503, but who paid no contributions upon wages for
21 insured work during such period on or before the date
22 designated in Section 1503, shall be the maximum contribution
23 rate as determined by paragraph 2 of this subsection. The
24 contribution rate for each employer for whom no wages became
25 benefit wages during the applicable period on or before the
26 date specified in Section 1503, and who paid no contributions
27 upon wages for insured work during such period on or before the
28 date specified in Section 1503, shall be the greater of 2.7% or
29 2.7% times the then current adjusted state experience factor as
30 determined by the Director in accordance with the provisions of
31 Sections 1504 and 1505.

32 Notwithstanding, the other provisions of this Section, no
33 employer's contribution rate with respect to the calendar year
34 1984 shall exceed 2.7 percent times the then current adjusted
35 state experience factor as determined by the Director in
36 accordance with the provisions of Sections 1504 and 1505 of the

1 wages for insured work paid by him during any calendar quarter,
2 if such wages paid during such calendar quarter total less than
3 \$50,000.

4 D. The contribution rate for calendar years 1987, 1988,
5 1989 and 1990 of each employer who has incurred liability for
6 the payment of contributions within each of the three calendar
7 years immediately preceding the calendar year for which a rate
8 is being determined shall be the product obtained by
9 multiplying the employer's benefit wage ratio for that calendar
10 year by the adjusted state experience factor for the same year,
11 provided, that:

12 1. An employer's minimum contribution rate shall be the
13 greater of .2% or the product obtained by multiplying .2%
14 by the adjusted State experience factor for the applicable
15 calendar year.

16 2. An employer's maximum contribution rate shall be the
17 greater of 5.5% or the product of 5.5% and the adjusted
18 State experience factor for the calendar year 1987 except
19 that such maximum contribution rate shall not be higher
20 than 6.7% or lower than 6.5% and an employer's maximum
21 contribution rate for 1988, 1989 and 1990 shall be the
22 greater of 6.4% or the product of 6.4% and the adjusted
23 State experience factor for the applicable calendar year.

24 3. If any product obtained in this subsection is not an
25 exact multiple of one-tenth of one percent, it shall be
26 increased or reduced, as the case may be to the nearer
27 multiple of one-tenth of 1 percent. If such product is
28 equally near to two multiples of one-tenth of 1 percent, it
29 shall be increased to the higher multiple of one-tenth of 1
30 percent.

31 4. Intermediate rates between such minimum and maximum
32 rates shall be at one-tenth of 1 percent intervals.

33 The contribution rate of each employer for whom wages
34 became benefit wages during the applicable period specified in
35 Section 1503, but who did not report wages for insured work
36 during such period, shall be the maximum contribution rate as

1 determined by paragraph 2 of this subsection. The contribution
2 rate for each employer for whom no wages became benefit wages
3 during the applicable period specified in Section 1503, and who
4 did not report wages for insured work during such period, shall
5 be the greater of 2.7% or 2.7% times the then current adjusted
6 State experience factor as determined by the Director in
7 accordance with the provisions of Sections 1504 and 1505.

8 E. Except as provided in Section 1507.1, the ~~The~~
9 contribution rate for calendar year 1991 and each calendar year
10 thereafter of each employer who has incurred liability for the
11 payment of contributions within each of the three calendar
12 years immediately preceding the calendar year for which a rate
13 is being determined shall be the product obtained by
14 multiplying the employer's benefit ratio defined by Section
15 1503.1 for that calendar year by the adjusted state experience
16 factor for the same year, provided that:

17 1. Except as otherwise provided in this paragraph, an
18 employer's minimum contribution rate shall be the greater
19 of 0.2% or the product obtained by multiplying 0.2% by the
20 adjusted state experience factor for the applicable
21 calendar year. An employer's minimum contribution rate
22 shall be 0.1% for calendar year 1996.

23 2. Except as provided in Section 1507.1, an ~~An~~
24 employer's maximum contribution rate shall be the greater
25 of 6.4% or the product of 6.4% and the adjusted state
26 experience factor for the applicable calendar year.

27 3. If any product obtained in this subsection is not an
28 exact multiple of one-tenth of one percent, it shall be
29 increased or reduced, as the case may be to the nearer
30 multiple of one-tenth of one percent. If such product is
31 equally near to two multiples of one-tenth of one percent,
32 it shall be increased to the higher multiple of one-tenth
33 of one percent.

34 4. Intermediate rates between such minimum and maximum
35 rates shall be at one-tenth of one percent intervals.

36 Except as provided in Section 1507.1, the ~~The~~ contribution

1 rate of each employer for whom wages became benefit wages
2 during the applicable period specified in Section 1503 or for
3 whom benefit payments became benefit charges during the
4 applicable period specified in Section 1503.1, but who did not
5 report wages for insured work during such period, shall be the
6 maximum contribution rate as determined by paragraph 2 of this
7 subsection. Except as provided in Section 1507.1, the ~~The~~
8 contribution rate for each employer for whom no wages became
9 benefit wages during the applicable period specified in Section
10 1503 or for whom no benefit payments became benefit charges
11 during the applicable period specified in Section 1503.1, and
12 who did not report wages for insured work during such period,
13 shall be the greater of 2.7% or 2.7% times the then current
14 adjusted state experience factor as determined by the Director
15 in accordance with the provisions of Sections 1504 and 1505.

16 F. Notwithstanding the other provisions of this Section,
17 and pursuant to Section 271 of the Tax Equity and Fiscal
18 Responsibility Act of 1982, as amended, no employer's
19 contribution rate with respect to calendar years 1985, 1986,
20 1987 and 1988 shall, for any calendar quarter during which the
21 wages paid by that employer are less than \$50,000, exceed the
22 following: with respect to calendar year 1985, 3.7%; with
23 respect to calendar year 1986, 4.1%; with respect to calendar
24 year 1987, 4.5%; and with respect to calendar year 1988, 5.0%.

25 G. Notwithstanding the other provisions of this Section,
26 except as provided in subsection C of Section 1507.1, no
27 employer's contribution rate with respect to calendar year 1989
28 and each calendar year thereafter shall exceed 5.4% of the
29 wages for insured work paid by him during any calendar quarter,
30 if such wages paid during such calendar quarter total less than
31 \$50,000.

32 (Source: P.A. 89-446, eff. 2-8-96.)

33 (820 ILCS 405/1506.3) (from Ch. 48, par. 576.3)

34 Sec. 1506.3. Fund building rates - Temporary
35 Administrative Funding.

1 A. Notwithstanding any other provision of this Act, the
2 following fund building rates shall be in effect for the
3 following calendar years:

4 For each employer whose contribution rate for 1988, 1989,
5 1990, the first, third, and fourth quarters of 1991, 1992,
6 1993, 1994, 1995, and 1997 through 2003 would, in the absence
7 of this Section, be 0.2% or higher, a contribution rate which
8 is the sum of such rate and a fund building rate of 0.4%;

9 For each employer whose contribution rate for the second
10 quarter of 1991 would, in the absence of this Section, be 0.2%
11 or higher, a contribution rate which is the sum of such rate
12 and 0.3%;

13 For each employer whose contribution rate for 1996 would,
14 in the absence of this Section, be 0.1% or higher, a
15 contribution rate which is the sum of such rate and 0.4%;

16 Except as provided in Section 1507.1, for ~~For~~ each employer
17 whose contribution rate for 2004 through 2009 would, in the
18 absence of this Section, be 0.2% or higher, a contribution rate
19 which is the sum of such rate and the following: a fund
20 building rate of 0.7% for 2004; a fund building rate of 0.9%
21 for 2005; a fund building rate of 0.8% for 2006 and 2007; a
22 fund building rate of 0.6% for 2008; a fund building rate of
23 0.4% for 2009.

24 Except as provided in Section 1507.1, for ~~For~~ each employer
25 whose contribution rate for 2010 and any calendar year
26 thereafter would, in the absence of this Section, be 0.2% or
27 higher, a contribution rate which is the sum of such rate and a
28 fund building rate equal to the sum of the rate adjustment
29 applicable to that year pursuant to Section 1400.1, plus the
30 fund building rate in effect pursuant to this Section for the
31 immediately preceding calendar year. Notwithstanding any
32 provision to the contrary, the fund building rate in effect for
33 any calendar year after calendar year 2009 shall not be less
34 than 0.4% or greater than 0.55%.

35 Notwithstanding the preceding paragraphs of this Section
36 or any other provision of this Act, except for the provisions

1 contained in Section 1500 pertaining to rates applicable to
2 employers classified under the Standard Industrial Code, or
3 another classification system sanctioned by the United States
4 Department of Labor and prescribed by the Director by rule, and
5 except as provided in subsection C of Section 1507.1, no
6 employer whose total wages for insured work paid by him during
7 any calendar quarter in 1988 and any calendar year thereafter
8 are less than \$50,000 shall pay contributions at a rate with
9 respect to such quarter which exceeds the following: with
10 respect to calendar year 1988, 5%; with respect to 1989 and any
11 calendar year thereafter, 5.4%.

12 Notwithstanding the preceding paragraph of this Section,
13 or any other provision of this Act, no employer's contribution
14 rate with respect to calendar years 1993 through 1995 shall
15 exceed 5.4% if the employer ceased operations at an Illinois
16 manufacturing facility in 1991 and remained closed at that
17 facility during all of 1992, and the employer in 1993 commits
18 to invest at least \$5,000,000 for the purpose of resuming
19 operations at that facility, and the employer rehires during
20 1993 at least 250 of the individuals employed by it at that
21 facility during the one year period prior to the cessation of
22 its operations, provided that, within 30 days after the
23 effective date of this amendatory Act of 1993, the employer
24 makes application to the Department to have the provisions of
25 this paragraph apply to it. The immediately preceding sentence
26 shall be null and void with respect to an employer which by
27 December 31, 1993 has not satisfied the rehiring requirement
28 specified by this paragraph or which by December 31, 1994 has
29 not made the investment specified by this paragraph. All
30 payments attributable to the fund building rate established
31 pursuant to this Section with respect to the fourth quarter of
32 calendar year 2003, the first quarter of calendar year 2004 and
33 any calendar quarter thereafter as of the close of which there
34 are either bond obligations outstanding pursuant to the
35 Illinois Unemployment Insurance Trust Fund Financing Act, or
36 bond obligations anticipated to be outstanding as of either or

1 both of the 2 immediately succeeding calendar quarters, shall
2 be directed for deposit into the Master Bond Fund.

3 B. Notwithstanding any other provision of this Act, for the
4 second quarter of 1991, the contribution rate of each employer
5 as determined in accordance with Sections 1500, 1506.1, and
6 subsection A of this Section shall be equal to the sum of such
7 rate and 0.1%; provided that this subsection shall not apply to
8 any employer whose rate computed under Section 1506.1 for such
9 quarter is between 5.1% and 5.3%, inclusive, and who qualifies
10 for the 5.4% rate ceiling imposed by the last paragraph of
11 subsection A for such quarter. All payments made pursuant to
12 this subsection shall be deposited in the Employment Security
13 Administrative Fund established under Section 2103.1 and used
14 for the administration of this Act.

15 C. Payments received by the Director which are insufficient
16 to pay the total contributions due under the Act shall be first
17 applied to satisfy the amount due pursuant to subsection B.

18 C-1. Payments received by the Director with respect to the
19 fourth quarter of calendar year 2003, the first quarter of
20 calendar year 2004 and any calendar quarter thereafter as of
21 the close of which there are either bond obligations
22 outstanding pursuant to the Illinois Unemployment Insurance
23 Trust Fund Financing Act, or bond obligations anticipated to be
24 outstanding as of either or both of the 2 immediately
25 succeeding calendar quarters, shall, to the extent they are
26 insufficient to pay the total amount due under the Act with
27 respect to the quarter, be first applied to satisfy the amount
28 due with respect to that quarter and attributable to the fund
29 building rate established pursuant to this Section.
30 Notwithstanding any other provision to the contrary, with
31 respect to an employer whose contribution rate with respect to
32 a quarter subject to this subsection would have exceeded 5.4%
33 but for the 5.4% rate ceiling imposed pursuant to subsection A,
34 the amount due from the employer with respect to that quarter
35 and attributable to the fund building rate established pursuant
36 to subsection A shall equal the amount, if any, by which the

1 amount due and attributable to the 5.4% rate exceeds the amount
2 that would have been due and attributable to the employer's
3 rate determined pursuant to Sections 1500 and 1506.1, without
4 regard to the fund building rate established pursuant to
5 subsection A and without regard to paragraph (2) of subsection
6 A of Section 1507.1.

7 D. All provisions of this Act applicable to the collection
8 or refund of any contribution due under this Act shall be
9 applicable to the collection or refund of amounts due pursuant
10 to subsection B and amounts directed pursuant to this Section
11 for deposit into the Master Bond Fund to the extent they would
12 not otherwise be considered as contributions.

13 (Source: P.A. 93-634, eff. 1-1-04.)

14 (820 ILCS 405/1507) (from Ch. 48, par. 577)

15 Sec. 1507. Contribution rates of successor and predecessor
16 employing units.

17 A. Whenever any employing unit succeeds to substantially
18 all of the employing enterprises of another employing unit,
19 then in determining contribution rates for any calendar year,
20 the experience rating record of the predecessor prior to the
21 succession shall be transferred to the successor and thereafter
22 it shall not be treated as the experience rating record of the
23 predecessor, except as provided in subsection B. For the
24 purposes of this Section, such experience rating record shall
25 consist of all years during which liability for the payment of
26 contributions was incurred by the predecessor prior to the
27 succession, all benefit wages based upon wages paid by the
28 predecessor prior to the succession, all benefit charges based
29 on separations from, or reductions in work initiated by, the
30 predecessor prior to the succession, and all wages for insured
31 work paid by the predecessor prior to the succession. This
32 amendatory Act of the 93rd General Assembly is intended to be a
33 continuation of prior law.

34 B. The provisions of this subsection shall be applicable
35 only to the determination of contribution rates for the

1 calendar year 1956 and for each calendar year thereafter.
2 Whenever any employing unit has succeeded to substantially all
3 of the employing enterprises of another employing unit, but the
4 predecessor employing unit has retained a distinct severable
5 portion of its employing enterprises or whenever any employing
6 unit has succeeded to a distinct severable portion which is
7 less than substantially all of the employing enterprises of
8 another employing unit, the successor employing unit shall
9 acquire the experience rating record attributable to the
10 portion to which it has succeeded, and the predecessor
11 employing unit shall retain the experience rating record
12 attributable to the portion which it has retained, if--

13 1. It files a written application for such experience
14 rating record which is joined in by the employing unit
15 which is then entitled to such experience rating record;
16 and

17 2. The joint application contains such information as
18 the Director shall by regulation prescribe which will show
19 that such experience rating record is identifiable and
20 segregable and, therefore, capable of being transferred;
21 and

22 3. The joint application is filed prior to whichever of
23 the following dates is the latest: (a) July 1, 1956; (b)
24 one year after the date of the succession; or (c) the date
25 that the rate determination of the employing unit which has
26 applied for such experience rating record has become final
27 for the calendar year immediately following the calendar
28 year in which the succession occurs. The filing of a timely
29 joint application shall not affect any rate determination
30 which has become final, as provided by Section 1509.

31 If all of the foregoing requirements are met, then the
32 Director shall transfer such experience rating record to the
33 employing unit which has applied therefor, and it shall not be
34 treated as the experience rating record of the employing unit
35 which has joined in the application.

36 Whenever any employing unit is reorganized into two or more

1 employing units, and any of such employing units are owned or
2 controlled by the same interests which owned or controlled the
3 predecessor prior to the reorganization, and the provisions of
4 this subsection become applicable thereto, then such
5 affiliated employing units during the period of their
6 affiliation shall be treated as a single employing unit for the
7 purpose of determining their rates of contributions.

8 C. For the calendar year in which a succession occurs which
9 results in the total or partial transfer of a predecessor's
10 experience rating record, the contribution rates of the parties
11 thereto shall be determined in the following manner:

12 1. If any of such parties had a contribution rate
13 applicable to it for that calendar year, it shall continue
14 with such contribution rate.

15 2. If any successor had no contribution rate applicable
16 to it for that calendar year, and only one predecessor is
17 involved, then the contribution rate of the successor shall
18 be the same as that of its predecessor.

19 3. If any successor had no contribution rate applicable
20 to it for that calendar year, and two or more predecessors
21 are involved, then the contribution rate of the successor
22 shall be computed, on the combined experience rating
23 records of the predecessors or on the appropriate part of
24 such records if any partial transfer is involved, as
25 provided in Sections 1500 to 1507, inclusive.

26 4. Notwithstanding the provisions of paragraphs 2 and 3
27 of this subsection, if any succession occurs prior to the
28 calendar year 1956 and the successor acquires part of the
29 experience rating record of the predecessor as provided in
30 subsection B of this Section, then the contribution rate of
31 that successor for the calendar year in which such
32 succession occurs shall be 2.7 percent.

33 D. The provisions of this Section shall not be applicable
34 if the provisions of Section 1507.1 are applicable.

35 (Source: P.A. 93-634, eff. 1-1-04.)

1 (820 ILCS 405/1507.1 new)

2 Sec. 1507.1. Transfer of trade or business; contribution
3 rate. Notwithstanding any other provision of this Act:

4 A.(1) If an individual or entity transfers its trade or
5 business, or a portion thereof, and, at the time of the
6 transfer, there is any material common ownership, management,
7 or control of the transferor and transferee, then the
8 experience rating records of the transferor and transferee
9 shall be combined for the purpose of determining their rates of
10 contribution. For purposes of this subsection, a transfer of
11 trade or business includes but is not limited to the transfer
12 of some or all of the transferor's workforce.

13 (2) In the case of a transfer to which paragraph (1)
14 applies:

15 (a) Except as otherwise provided in subparagraph (c),
16 if the transferor or transferee had a contribution rate
17 applicable to it for the calendar year in which the
18 transfer occurred, it shall continue with that
19 contribution rate for the remainder of the calendar year.

20 (b) If the transferee had no contribution rate
21 applicable to it for the calendar year in which the
22 transfer occurred, then, subject to the 5.4% rate ceiling
23 established pursuant to subsection G of Section 1506.1 and
24 subsection A of Section 1506.3, the contribution rate of
25 the transferee shall be the same as the contribution rate
26 of the transferor for the remainder of the calendar year;
27 where there are 2 or more transferors involved, this
28 subparagraph shall be applied using the highest
29 contribution rate of any of the transferors.

30 (c) If, immediately prior to the transfer, the
31 contribution rate of the transferor is higher for the
32 calendar year in which the transfer occurs than the
33 contribution rate of the transferee, then, subject to the
34 5.4% rate ceiling established pursuant to subsection G of
35 Section 1506.1 and subsection A of Section 1506.3, the
36 contribution rate of the transferee shall be the same, for

1 the calendar year, retroactive to the beginning of the
2 calendar year, as the contribution rate of the transferor;
3 where there are 2 or more transferors involved, this
4 subparagraph shall be applied using the highest
5 contribution rate of any of the transferors.

6 B. If any individual or entity that is not an employer
7 under this Act at the time of the acquisition acquires the
8 trade or business of an employing unit, the experience rating
9 record of the acquired business shall not be transferred to the
10 individual or entity if the Director finds that the individual
11 or entity acquired the business solely or primarily for the
12 purpose of obtaining a lower rate of contributions. Evidence
13 that a business was acquired solely or primarily for the
14 purpose of obtaining a lower rate of contributions includes but
15 is not necessarily limited to the following: the cost of
16 acquiring the business is low in relation to the individual's
17 or entity's overall operating costs subsequent to the
18 acquisition; the individual or entity discontinued the
19 business enterprise of the acquired business immediately or
20 shortly after the acquisition; or the individual or entity
21 hired a significant number of individuals for performance of
22 duties unrelated to the business activity conducted prior to
23 acquisition.

24 C. An individual or entity to which subsection A applies
25 shall pay contributions with respect to each calendar year at a
26 rate consistent with that subsection, and an individual or
27 entity to which subsection B applies shall pay contributions
28 with respect to each calendar year at a rate consistent with
29 that subsection. If an individual or entity knowingly violates
30 or attempts to violate this subsection, the individual or
31 entity shall be subject to the following penalties:

32 (1) If the individual or entity is an employer, then,
33 in addition to the rate that would otherwise be calculated,
34 the employer shall be assigned a penalty contribution rate
35 equivalent to 50% of the rate calculated in accordance with
36 Sections 1500 through 1507 and subsections A and B for the

1 calendar year with respect to which the violation or
2 attempted violation occurred and the 3 calendar years
3 immediately following that year. If any product obtained
4 pursuant to this subsection is not an exact multiple of
5 one-tenth of 1%, it shall be increased or reduced, as the
6 case may be, to the nearer multiple of one-tenth of 1%. If
7 such product is equally near to 2 multiples of one-tenth of
8 1%, it shall be increased to the higher multiple of
9 one-tenth of 1%.

10 (2) If the individual or entity is not an employer, the
11 individual or entity shall be subject to a penalty of
12 \$10,000 for each violation. Any such penalty shall be
13 deposited into the Special Administrative Account.

14 D. An individual or entity shall not knowingly advise
15 another in a way that results in a violation of subsection C.
16 An individual or entity that violates this subsection shall be
17 subject to a penalty of \$10,000 for each violation. Any such
18 penalty shall be deposited into the Special Administrative
19 Account.

20 E. Any individual or entity that violates subsection C or D
21 shall be guilty of a Class B misdemeanor. In the case of a
22 corporation, the president, the secretary, and the treasurer,
23 and any other officer exercising corresponding functions,
24 shall each be subject to the aforesaid penalty for the
25 violation of subsection C or D of which he or she had or, in the
26 exercise of his or her duties, ought to have had knowledge.

27 F. The Director shall establish procedures to identify the
28 transfer or acquisition of a trade or business for purposes of
29 this Section.

30 G. For purposes of this Section:

31 "Experience rating record" shall consist of years
32 during which liability for the payment of contributions was
33 incurred, all benefit charges incurred, and all wages paid
34 for insured work, including but not limited to years,
35 benefit charges, and wages attributed to an individual or
36 entity pursuant to Section 1507 or subsection A.

1 "Knowingly" means having actual knowledge of or acting
2 with deliberate ignorance of or reckless disregard for the
3 statutory provision involved. There is a rebuttable
4 presumption that an individual's or entity's violation of
5 subsection C is knowing if, prior to the violation, the
6 individual or entity did not provide the Department with
7 notice of the transfer that gave rise to the violation.

8 "Transferee" means any individual or entity to which
9 the transferor transfers its trade or business or any
10 portion thereof.

11 "Transferor" means the individual or entity that
12 transfers its trade or business or any portion thereof.

13 H. This Section shall be interpreted and applied in such a
14 manner as to meet the minimum requirements contained in any
15 guidance or regulations issued by the United States Department
16 of Labor.