

FIRST REGULAR SESSION

HOUSE BILL NO. 929

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALSH (Sponsor), VOGT, WEBBER, FISHER (125),
MEADOWS, FUNDERBURK, ALLEN, BIVINS, DOUGHERTY,
BURNETT AND JONES (89) (Co-sponsors).

2285L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 288.130, 288.160, and 288.170, RSMo, and to enact in lieu thereof three new sections relating to unemployment compensation.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 288.130, 288.160, and 288.170, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 288.130, 288.160, and 288.170, to read as follows:

288.130. 1. Each employing unit shall keep true and accurate payroll and other related records, containing such information as the division may by regulation prescribe for a period of at least three calendar years after the record was made. Such records shall be open to inspection and be subject to being copied by authorized representatives of the division at any reasonable time and as often as may be necessary. Any authorized person engaged in administering this law may require from any employing unit any sworn or unsworn reports, with respect to individuals performing services for it, which are deemed necessary for the effective administration of this law.

2. All employers [required to report W-2 copy A information on magnetic media tape to the Social Security Administration pursuant to 26 CFR Section 301.6011-2, or successor regulations,] **with fifty or more workers** are [likewise] required to report quarterly wage information due pursuant to section 288.090 to the division [on magnetic tape or diskette in a format prescribed by the division] **in an electronic format prescribed by the division.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

14 3. Each employer shall post and maintain in places readily accessible to the employer's
15 workers printed statements concerning benefit rights, claims for benefits and such other matters
16 related to the administration of this law as the division may by regulation prescribe. Each
17 employer shall supply to workers copies of any printed statements relating to claims for benefits
18 when and as the division may by regulation prescribe. Such printed statements and other
19 materials shall be supplied by the division without cost.

20 4. A deputy shall make an ex parte determination after investigation but without hearing
21 with respect to any matter pertaining to the liability of an employing unit which does not involve
22 a claimant. The deputy shall promptly notify any interested employing units of each such
23 determination and the reason for it. The division shall grant a hearing before an appeals tribunal
24 to any employing unit appealing from any such ex parte determination provided an appeal is filed
25 in writing within thirty days following the date of notification or the mailing of such
26 determination to the party's last known address. In the absence of an appeal any such
27 determination shall become final at the expiration of a thirty-day period. The deputy may,
28 however, at any time within a year from the date of the deputy's determination, for good cause,
29 reconsider the determination and shall promptly notify all interested employing units of his
30 amended determination and the reason for it.

31 5. The thirty-day period provided in subsection 4 of this section may, for good cause, be
32 extended.

288.160. 1. If any employer neglects or refuses to make a report as required by this law
2 the division shall make an estimate based on any information in its possession or that may come
3 into its possession of the amount of wages paid by such employer for the period in respect to
4 which the employer failed to make the report, and upon the basis of such estimated amount
5 compute and assess the contributions and interest payable by such employer, adding to such sum
6 a penalty as set forth in subsection 2 of this section. Promptly thereafter, the division shall give
7 to such employer written notice of such estimated contributions, interest and penalties as so
8 assessed, the notice to be served [personally or] by registered **or certified** mail, directed to the
9 last known [principal place of business] **address** of such employer [in this state or in any state
10 in the event the employer has none in this state].

11 2. If any employer neglects or refuses to file any required report by the last day of the
12 month following the due date there shall be imposed a penalty, equal to the greater of one
13 hundred dollars or ten percent of the contributions required to be shown on the report, for each
14 month or fraction thereof during which such failure continues, provided, however, that the
15 penalty shall not exceed the greater of two hundred dollars or twenty percent of the contributions
16 in the aggregate.

17 3. In any case in which any contributions, interest or penalties imposed by this law are
18 not paid when due, it shall be the duty of the division, when the amount of contributions, interest
19 or penalties is determined, either by the report of the employer or by such investigation as the
20 division may make, to assess the contributions, interest and penalties so determined against such
21 employer and to certify the amount of such contributions, interest and penalties and give such
22 employer written notice, served [personally or] by registered **or certified** mail, directed to the
23 last known address of such employer [in this state or in any state, in the event the employer has
24 none in this state].

25 4. If fraud or evasion on the part of any employer is discovered by the division, the
26 division shall determine the amount by which the state has been defrauded, shall add to the
27 amount so determined a penalty equal to twenty-five percent thereof, and shall assess the same
28 against the employer. The amount so assessed shall be immediately due and payable; provided,
29 however, that the division shall promptly thereafter give to such employer written notice of such
30 assessment.

31 5. Any employer against whom an assessment is made pursuant to the provisions of
32 subsections 1, 2, 3 and 4 of this section may petition for reassessment. The petition for such
33 reassessment shall be filed with the division during the thirty-day period following the [day of
34 service or] mailing of the notice of such assessment. In the absence of the filing of such a
35 petition for reassessment the assessment shall become final upon the expiration of such a
36 thirty-day period. Each such petition for reassessment shall set forth specifically and in detail
37 the grounds upon which it is claimed the assessment is erroneous.

38 6. (1) In any case in which any contributions, interest or penalties imposed by law are
39 not paid when due, the notice of the assessment of such contributions, interest and penalties shall
40 be served upon or mailed to the employer within three years of the date upon which the payment
41 of the contributions was due except that in any case of fraud or misrepresentation on the part of
42 the employer, the notice of the assessment of the contributions, interest and penalties may be
43 served [upon or mailed] **by registered or certified mail to the last known address of such**
44 **employer at any time.**

45 (2) The giving of the notice of the making of the assessment shall toll any statute of
46 limitations on the collection of any contributions, interest and penalties assessed.

47 (3) In the event any employer is entitled to the advantage of the Soldiers' and Sailors'
48 Civil Relief Act of 1940, or any amendment thereto, prior to the date any assessment becomes
49 final, such employer shall be permitted to file a petition for reassessment at any time within
50 ninety days following such employer's discharge from the armed services.

51 (4) The certificate of assessment which, pursuant to the provisions of section 288.170,
52 may be filed with the clerk of the circuit court shall, upon such filing, thereafter be treated in all

53 respects as a final judgment of the circuit court against the employer and the general statute of
54 limitations applying to other judgments of courts of record shall apply.

288.170. 1. In any case in which any contributions, interest or penalties imposed under
2 this law are not paid when due and the assessment of which has become final, the division may
3 file for record in the office of the clerk of the circuit court in the county in which the employer
4 owing said contributions, interest or penalties resides, or has his place of business, or any other
5 county in which he has property, or all of them, a certificate specifying the amount of the
6 contributions, interest and penalties due and the name of the employer liable for the same and
7 it shall be the duty of the clerk of the circuit court to file such certificate of record and enter the
8 same in the record of the circuit court for judgments and decrees under the procedure prescribed
9 for filing transcripts of judgments. From the time of the filing of such certificate, the amount of
10 the contributions, interest and penalties specified therein shall have the force and effect of a
11 judgment of the circuit court until the same is satisfied by the division through its duly
12 authorized agents. Execution shall be issuable at the request of the division, its agent or attorney
13 as is provided in the case of other judgments. No exemption shall be allowed from the levy of
14 an execution issued for such contributions, interest and penalties and no indemnifying bond shall
15 be required by the sheriff before making levy.

16 2. If any employer defaults in the payment of contributions, interest, or penalties the
17 amount due shall be collected by civil action in the name of the division. Such suit shall be
18 brought in the county wherein the employer resides or has a place of business or agent for the
19 transaction of business in this state or where he or it may be found, and the employer adjudged
20 in default shall pay the cost of such action. Any civil action brought under this law shall be
21 heard by the court at the earliest possible date and shall be entitled to preference on the calendar
22 of the court over all other civil actions except petitions for judicial review under this law and
23 cases arising under the workmen's compensation law of this state. If any employer shall fail to
24 resort to the remedy herein provided for reassessment of any contributions, interest or penalties
25 within the time as provided herein, such employer shall thereafter be precluded from asserting
26 any defense in a direct suit for the collection of the contributions.

27 3. **In any case in which any assessment of contributions, interest, or penalties**
28 **imposed under this law are not paid when due and the assessment of which has become**
29 **final, the division may file for record in the recorder's office of any county in which the**
30 **employer owing such contributions, interest, or penalties resides, owns property, or has a**
31 **place of business a certificate of lien specifying the amount of the contributions, interest,**
32 **or penalties due and the name of the employer liable for the same. It shall be the duty of**
33 **the recorder to file such certificate of lien and enter the same in the record of the county.**
34 **The lien shall arise on the date such assessment becomes final and shall be continuing and**

35 shall attach to real or personal property or interest in real or personal property owned by
36 the employer or acquired in any manner by the employer after the filing of the certificate
37 of lien. Unless sooner released or discharged, the lien shall expire ten years after the
38 certificate of lien was filed, unless within such ten-year period the certificate of lien has
39 been refiled by the division with the recorder. Unless sooner released or discharged, a
40 timely refiled certificate of lien shall be treated as if filed on the date of filing of the original
41 certificate of lien and shall expire ten years after the refiling. A certificate of lien shall not
42 be refiled more than one time.

43 **4.** The foregoing remedies shall be cumulative and no action taken shall be construed
44 as an election on the part of the state or any of its officers to pursue any remedy or action
45 hereunder to the exclusion of any other remedy or action for which provision is made.

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