
HOUSE BILL 2920

State of Washington 61st Legislature 2010 Regular Session

By Representatives Condotta, Chandler, Crouse, Johnson, and Kretz

Read first time 01/18/10. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to limiting employer contribution rates for
2 unemployment insurance purposes; reenacting and amending RCW 50.29.025;
3 creating a new section; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.29.025 and 2009 c 493 s 2 and 2009 c 3 s 14 are
6 each reenacted and amended to read as follows:

7 (1) For contributions assessed for rate years 2005 through 2009,
8 the contribution rate for each employer subject to contributions under
9 RCW 50.24.010 shall be the sum of the array calculation factor rate and
10 the graduated social cost factor rate determined under this subsection,
11 and the solvency surcharge determined under RCW 50.29.041, if any.

12 (a) The array calculation factor rate shall be determined as
13 follows:

14 (i) An array shall be prepared, listing all qualified employers in
15 ascending order of their benefit ratios. The array shall show for each
16 qualified employer: (A) Identification number; (B) benefit ratio; and
17 (C) taxable payrolls for the four consecutive calendar quarters
18 immediately preceding the computation date and reported to the
19 employment security department by the cut-off date.

1 (ii) Each employer in the array shall be assigned to one of forty
 2 rate classes according to his or her benefit ratio as follows, and,
 3 except as provided in RCW 50.29.026, the array calculation factor rate
 4 for each employer in the array shall be the rate specified in the rate
 5 class to which the employer has been assigned:

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
8		0.000001	1	0.00
9	0.000001	0.001250	2	0.13
10	0.001250	0.002500	3	0.25
11	0.002500	0.003750	4	0.38
12	0.003750	0.005000	5	0.50
13	0.005000	0.006250	6	0.63
14	0.006250	0.007500	7	0.75
15	0.007500	0.008750	8	0.88
16	0.008750	0.010000	9	1.00
17	0.010000	0.011250	10	1.15
18	0.011250	0.012500	11	1.30
19	0.012500	0.013750	12	1.45
20	0.013750	0.015000	13	1.60
21	0.015000	0.016250	14	1.75
22	0.016250	0.017500	15	1.90
23	0.017500	0.018750	16	2.05
24	0.018750	0.020000	17	2.20
25	0.020000	0.021250	18	2.35
26	0.021250	0.022500	19	2.50
27	0.022500	0.023750	20	2.65
28	0.023750	0.025000	21	2.80
29	0.025000	0.026250	22	2.95
30	0.026250	0.027500	23	3.10
31	0.027500	0.028750	24	3.25
32	0.028750	0.030000	25	3.40
33	0.030000	0.031250	26	3.55
34	0.031250	0.032500	27	3.70
35	0.032500	0.033750	28	3.85
36	0.033750	0.035000	29	4.00

1	0.035000	0.036250	30	4.15
2	0.036250	0.037500	31	4.30
3	0.037500	0.040000	32	4.45
4	0.040000	0.042500	33	4.60
5	0.042500	0.045000	34	4.75
6	0.045000	0.047500	35	4.90
7	0.047500	0.050000	36	5.05
8	0.050000	0.052500	37	5.20
9	0.052500	0.055000	38	5.30
10	0.055000	0.057500	39	5.35
11	0.057500		40	5.40

12 (b) The graduated social cost factor rate shall be determined as
13 follows:

14 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
15 the commissioner shall calculate the flat social cost factor for a rate
16 year by dividing the total social cost by the total taxable payroll.
17 The division shall be carried to the second decimal place with the
18 remaining fraction disregarded unless it amounts to five hundredths or
19 more, in which case the second decimal place shall be rounded to the
20 next higher digit. The flat social cost factor shall be expressed as
21 a percentage.

22 (B) If, on the cut-off date, the balance in the unemployment
23 compensation fund is determined by the commissioner to be an amount
24 that will provide more than ten months of unemployment benefits, the
25 commissioner shall calculate the flat social cost factor for the rate
26 year immediately following the cut-off date by reducing the total
27 social cost by the dollar amount that represents the number of months
28 for which the balance in the unemployment compensation fund on the cut-
29 off date will provide benefits above ten months and dividing the result
30 by the total taxable payroll. However, the calculation under this
31 subsection (1)(b)(i)(B) for a rate year may not result in a flat social
32 cost factor that is more than four-tenths lower than the calculation
33 under (b)(i)(A) of this subsection for that rate year.

34 For the purposes of this subsection, the commissioner shall
35 determine the number of months of unemployment benefits in the
36 unemployment compensation fund using the benefit cost rate for the
37 average of the three highest calendar benefit cost rates in the twenty

1 consecutive completed calendar years immediately preceding the cut-off
2 date or a period of consecutive calendar years immediately preceding
3 the cut-off date that includes three recessions, if longer.

4 (C) The minimum flat social cost factor calculated under this
5 subsection (1)(b) shall be six-tenths of one percent, except that if
6 the balance in the unemployment compensation fund is determined by the
7 commissioner to be an amount that will provide:

8 (I) At least twelve months but less than fourteen months of
9 unemployment benefits, the minimum shall be five-tenths of one percent;
10 or

11 (II) At least fourteen months of unemployment benefits, the minimum
12 shall be five-tenths of one percent, except that, for employers in rate
13 class 1, the minimum shall be forty-five hundredths of one percent.

14 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
15 graduated social cost factor rate for each employer in the array is the
16 flat social cost factor multiplied by the percentage specified as
17 follows for the rate class to which the employer has been assigned in
18 (a)(ii) of this subsection, except that the sum of an employer's array
19 calculation factor rate and the graduated social cost factor rate may
20 not exceed six and five-tenths percent or, for employers whose North
21 American industry classification system code is within "111," "112,"
22 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six
23 percent through rate year 2007 and may not exceed five and seven-tenths
24 percent for rate years 2008 and 2009:

25 (I) Rate class 1 - 78 percent;

26 (II) Rate class 2 - 82 percent;

27 (III) Rate class 3 - 86 percent;

28 (IV) Rate class 4 - 90 percent;

29 (V) Rate class 5 - 94 percent;

30 (VI) Rate class 6 - 98 percent;

31 (VII) Rate class 7 - 102 percent;

32 (VIII) Rate class 8 - 106 percent;

33 (IX) Rate class 9 - 110 percent;

34 (X) Rate class 10 - 114 percent;

35 (XI) Rate class 11 - 118 percent; and

36 (XII) Rate classes 12 through 40 - 120 percent.

37 (B) For contributions assessed beginning July 1, 2005, through
38 December 31, 2007, for employers whose North American industry

1 classification system code is "111," "112," "1141," "115," "3114,"
2 "3117," "42448," or "49312," the graduated social cost factor rate is
3 zero.

4 (iii) For the purposes of this section:

5 (A) "Total social cost" means the amount calculated by subtracting
6 the array calculation factor contributions paid by all employers with
7 respect to the four consecutive calendar quarters immediately preceding
8 the computation date and paid to the employment security department by
9 the cut-off date from the total unemployment benefits paid to claimants
10 in the same four consecutive calendar quarters. To calculate the flat
11 social cost factor for rate year 2005, the commissioner shall calculate
12 the total social cost using the array calculation factor contributions
13 that would have been required to be paid by all employers in the
14 calculation period if (a) of this subsection had been in effect for the
15 relevant period. ~~((To calculate the flat social cost factor for rate
16 years 2010 and 2011, the forty five dollar increase paid as part of an
17 individual's weekly benefit amount as provided in RCW 50.20.1201 shall
18 not be considered for purposes of calculating the total unemployment
19 benefits paid to claimants in the four consecutive calendar quarters
20 immediately preceding the computation date.))~~

21 (B) "Total taxable payroll" means the total amount of wages subject
22 to tax, as determined under RCW 50.24.010, for all employers in the
23 four consecutive calendar quarters immediately preceding the
24 computation date and reported to the employment security department by
25 the cut-off date.

26 (c) For employers who do not meet the definition of "qualified
27 employer" by reason of failure to pay contributions when due:

28 (i) The array calculation factor rate shall be two-tenths higher
29 than that in rate class 40, except employers who have an approved
30 agency-deferred payment contract by September 30th of the previous rate
31 year. If any employer with an approved agency-deferred payment
32 contract fails to make any one of the succeeding deferred payments or
33 fails to submit any succeeding tax report and payment in a timely
34 manner, the employer's tax rate shall immediately revert to an array
35 calculation factor rate two-tenths higher than that in rate class 40;
36 and

37 (ii) The social cost factor rate shall be the social cost factor
38 rate assigned to rate class 40 under (b)(ii) of this subsection.

1 (d) For all other employers not qualified to be in the array:

2 (i) For rate years 2005, 2006, and 2007:

3 (A) The array calculation factor rate shall be a rate equal to the
4 average industry array calculation factor rate as determined by the
5 commissioner, plus fifteen percent of that amount; however, the rate
6 may not be less than one percent or more than the array calculation
7 factor rate in rate class 40; and

8 (B) The social cost factor rate shall be a rate equal to the
9 average industry social cost factor rate as determined by the
10 commissioner, plus fifteen percent of that amount, but not more than
11 the social cost factor rate assigned to rate class 40 under (b)(ii) of
12 this subsection.

13 (ii) For contributions assessed for rate years 2008 and 2009:

14 (A) The array calculation factor rate shall be a rate equal to the
15 average industry array calculation factor rate as determined by the
16 commissioner, multiplied by the history factor, but not less than one
17 percent or more than the array calculation factor rate in rate class
18 40;

19 (B) The social cost factor rate shall be a rate equal to the
20 average industry social cost factor rate as determined by the
21 commissioner, multiplied by the history factor, but not more than the
22 social cost factor rate assigned to rate class 40 under (b)(ii) of this
23 subsection; and

24 (C) The history factor shall be based on the total amounts of
25 benefits charged and contributions paid in the three fiscal years
26 ending prior to the computation date by employers not qualified to be
27 in the array, other than employers in (c) of this subsection, who were
28 first subject to contributions in the calendar year ending three years
29 prior to the computation date. The commissioner shall calculate the
30 history ratio by dividing the total amount of benefits charged by the
31 total amount of contributions paid in this three-year period by these
32 employers. The division shall be carried to the second decimal place
33 with the remaining fraction disregarded unless it amounts to five
34 one-hundredths or more, in which case the second decimal place shall be
35 rounded to the next higher digit. The commissioner shall determine the
36 history factor according to the history ratio as follows:

	History	History
	Ratio	Factor
		(percent)
	At least	Less than
(I)		.95
(II)	.95	1.05
(III)	1.05	115

(2) For contributions assessed in rate year 2010 and thereafter, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
		0.000001	1	0.00
	0.000001	0.001250	2	0.11
	0.001250	0.002500	3	0.22
	0.002500	0.003750	4	0.33
	0.003750	0.005000	5	0.43
	0.005000	0.006250	6	0.54

1	0.006250	0.007500	7	0.65
2	0.007500	0.008750	8	0.76
3	0.008750	0.010000	9	0.88
4	0.010000	0.011250	10	1.01
5	0.011250	0.012500	11	1.14
6	0.012500	0.013750	12	1.28
7	0.013750	0.015000	13	1.41
8	0.015000	0.016250	14	1.54
9	0.016250	0.017500	15	1.67
10	0.017500	0.018750	16	1.80
11	0.018750	0.020000	17	1.94
12	0.020000	0.021250	18	2.07
13	0.021250	0.022500	19	2.20
14	0.022500	0.023750	20	2.38
15	0.023750	0.025000	21	2.50
16	0.025000	0.026250	22	2.63
17	0.026250	0.027500	23	2.75
18	0.027500	0.028750	24	2.88
19	0.028750	0.030000	25	3.00
20	0.030000	0.031250	26	3.13
21	0.031250	0.032500	27	3.25
22	0.032500	0.033750	28	3.38
23	0.033750	0.035000	29	3.50
24	0.035000	0.036250	30	3.63
25	0.036250	0.037500	31	3.75
26	0.037500	0.040000	32	4.00
27	0.040000	0.042500	33	4.25
28	0.042500	0.045000	34	4.50
29	0.045000	0.047500	35	4.75
30	0.047500	0.050000	36	5.00
31	0.050000	0.052500	37	5.15
32	0.052500	0.055000	38	5.25
33	0.055000	0.057500	39	5.30
34	0.057500		40	5.40

35 (b) The graduated social cost factor rate shall be determined as
36 follows:

1 (i)(A) Except as provided in (b)(i)(B) (~~and~~), (C), and (D) of
2 this subsection, the commissioner shall calculate the flat social cost
3 factor for a rate year by dividing the total social cost by the total
4 taxable payroll. The division shall be carried to the second decimal
5 place with the remaining fraction disregarded unless it amounts to five
6 hundredths or more, in which case the second decimal place shall be
7 rounded to the next higher digit. The flat social cost factor shall be
8 expressed as a percentage.

9 (B) If, on the cut-off date, the balance in the unemployment
10 compensation fund is determined by the commissioner to be an amount
11 that will provide more than ten months of unemployment benefits, the
12 commissioner shall calculate the flat social cost factor for the rate
13 year immediately following the cut-off date by reducing the total
14 social cost by the dollar amount that represents the number of months
15 for which the balance in the unemployment compensation fund on the cut-
16 off date will provide benefits above ten months and dividing the result
17 by the total taxable payroll. However, the calculation under this
18 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
19 cost factor that is more than four-tenths lower than the calculation
20 under (b)(i)(A) of this subsection for that rate year.

21 For the purposes of this subsection, the commissioner shall
22 determine the number of months of unemployment benefits in the
23 unemployment compensation fund using the benefit cost rate for the
24 average of the three highest calendar benefit cost rates in the twenty
25 consecutive completed calendar years immediately preceding the cut-off
26 date or a period of consecutive calendar years immediately preceding
27 the cut-off date that includes three recessions, if longer.

28 (C) The minimum flat social cost factor calculated under this
29 subsection (2)(b) shall be six-tenths of one percent, except that if
30 the balance in the unemployment compensation fund is determined by the
31 commissioner to be an amount that will provide:

32 (I) At least ten months but less than eleven months of unemployment
33 benefits, the minimum shall be five-tenths of one percent; or

34 (II) At least eleven months but less than twelve months of
35 unemployment benefits, the minimum shall be forty-five hundredths of
36 one percent; or

37 (III) At least twelve months but less than thirteen months of

1 unemployment benefits, the minimum shall be four-tenths of one percent;
2 or

3 (IV) At least thirteen months but less than fifteen months of
4 unemployment benefits, the minimum shall be thirty-five hundredths of
5 one percent; or

6 (V) At least fifteen months but less than seventeen months of
7 unemployment benefits, the minimum shall be twenty-five hundredths of
8 one percent; or

9 (VI) At least seventeen months but less than eighteen months of
10 unemployment benefits, the minimum shall be fifteen hundredths of one
11 percent; or

12 (VII) At least eighteen months of unemployment benefits, the
13 minimum shall be fifteen hundredths of one percent through rate year
14 2011 and shall be zero thereafter.

15 (D) For contributions assessed in rate years 2010 and 2013, the
16 flat social cost factor calculated under this subsection (2)(b) shall
17 not be more than one percent. For contributions assessed in rate years
18 2011 and 2012, the flat social cost factor calculated under this
19 subsection (2)(b) shall not be more than one and four-tenths of one
20 percent.

21 (ii) The graduated social cost factor rate for each employer in the
22 array is the flat social cost factor multiplied by the percentage
23 specified as follows for the rate class to which the employer has been
24 assigned in (a)(ii) of this subsection, except that the sum of an
25 employer's array calculation factor rate and the graduated social cost
26 factor rate may not exceed six percent or, for employers whose North
27 American industry classification system code is within "111," "112,"
28 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five
29 and four-tenths percent:

30 (A) Rate class 1 - 78 percent;

31 (B) Rate class 2 - 82 percent;

32 (C) Rate class 3 - 86 percent;

33 (D) Rate class 4 - 90 percent;

34 (E) Rate class 5 - 94 percent;

35 (F) Rate class 6 - 98 percent;

36 (G) Rate class 7 - 102 percent;

37 (H) Rate class 8 - 106 percent;

38 (I) Rate class 9 - 110 percent;

- 1 (J) Rate class 10 - 114 percent;
2 (K) Rate class 11 - 118 percent; and
3 (L) Rate classes 12 through 40 - 120 percent.

4 (iii) For the purposes of this section:

5 (A) "Total social cost" means the amount calculated by subtracting
6 the array calculation factor contributions paid by all employers with
7 respect to the four consecutive calendar quarters immediately preceding
8 the computation date and paid to the employment security department by
9 the cut-off date from the total unemployment benefits paid to claimants
10 in the same four consecutive calendar quarters. To calculate the flat
11 social cost factor for rate years 2010 and 2011, the forty-five dollar
12 increase paid as part of an individual's weekly benefit amount as
13 provided in RCW 50.20.1201 shall not be considered for purposes of
14 calculating the total unemployment benefits paid to claimants in the
15 four consecutive calendar quarters immediately preceding the
16 computation date.

17 (B) "Total taxable payroll" means the total amount of wages subject
18 to tax, as determined under RCW 50.24.010, for all employers in the
19 four consecutive calendar quarters immediately preceding the
20 computation date and reported to the employment security department by
21 the cut-off date.

22 (c) For employers who do not meet the definition of "qualified
23 employer" by reason of failure to pay contributions when due:

24 (i) The array calculation factor rate shall be two-tenths higher
25 than that in rate class 40, except employers who have an approved
26 agency-deferred payment contract by September 30th of the previous rate
27 year. If any employer with an approved agency-deferred payment
28 contract fails to make any one of the succeeding deferred payments or
29 fails to submit any succeeding tax report and payment in a timely
30 manner, the employer's tax rate shall immediately revert to an array
31 calculation factor rate two-tenths higher than that in rate class 40;
32 and

33 (ii) The social cost factor rate shall be the social cost factor
34 rate assigned to rate class 40 under (b)(ii) of this subsection.

35 (d) For all other employers not qualified to be in the array:

36 (i) The array calculation factor rate shall be a rate equal to the
37 average industry array calculation factor rate as determined by the

1 commissioner, multiplied by the history factor, but not less than one
2 percent or more than the array calculation factor rate in rate class
3 40;

4 (ii) The social cost factor rate shall be a rate equal to the
5 average industry social cost factor rate as determined by the
6 commissioner, multiplied by the history factor, but not more than the
7 social cost factor rate assigned to rate class 40 under (b)(ii) of this
8 subsection; and

9 (iii) The history factor shall be based on the total amounts of
10 benefits charged and contributions paid in the three fiscal years
11 ending prior to the computation date by employers not qualified to be
12 in the array, other than employers in (c) of this subsection, who were
13 first subject to contributions in the calendar year ending three years
14 prior to the computation date. The commissioner shall calculate the
15 history ratio by dividing the total amount of benefits charged by the
16 total amount of contributions paid in this three-year period by these
17 employers. The division shall be carried to the second decimal place
18 with the remaining fraction disregarded unless it amounts to five
19 one-hundredths or more, in which case the second decimal place shall be
20 rounded to the next higher digit. The commissioner shall determine the
21 history factor according to the history ratio as follows:

	History		History
	Ratio		Factor
			(percent)
	At least	Less than	
26 (A)		.95	90
27 (B)	.95	1.05	100
28 (C)	1.05		115

29 (3) Assignment of employers by the commissioner to industrial
30 classification, for purposes of this section, shall be in accordance
31 with established classification practices found in the North American
32 industry classification system code.

33 NEW SECTION. **Sec. 2.** If any part of this act is found to be in
34 conflict with federal requirements that are a prescribed condition to

1 the allocation of federal funds to the state or the eligibility of
2 employers in this state for federal unemployment tax credits, the
3 conflicting part of this act is inoperative solely to the extent of the
4 conflict, and the finding or determination does not affect the
5 operation of the remainder of this act. Rules adopted under this act
6 must meet federal requirements that are a necessary condition to the
7 receipt of federal funds by the state or the granting of federal
8 unemployment tax credits to employers in this state.

9 NEW SECTION. **Sec. 3.** If any provision of this act or its
10 application to any person or circumstance is held invalid, the
11 remainder of the act or the application of the provision to other
12 persons or circumstances is not affected.

13 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of the
15 state government and its existing public institutions, and takes effect
16 immediately.

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