
**Labor & Workforce Development
Committee**

HB 2491

Brief Description: Addressing when predecessor-successor relationships do not exist for purposes of unemployment experience rating.

Sponsors: Representatives Upthegrove and Orwall.

Brief Summary of Bill

- Specifies particular circumstances in which a predecessor-successor relationship does not exist, and therefore, successor unemployment contribution rates are not assigned to an employer.

Hearing Date: 1/25/12

Staff: Jill Reinmuth (786-7134).

Background:

Most employment in the state is covered for unemployment insurance. Each covered employer is required to pay contributions on a percentage of his or her taxable payroll, except for certain employers who reimburse the Employment Security Department for benefits the agency pays to these employers' former workers.

For most covered taxable employers, unemployment insurance contribution rates are determined by the combined rate assigned to the employer based on layoff experience, social costs, and the solvency surcharge, if any. For successor employers, however, contribution rates are assigned differently.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Predecessor-Successor Relationships.

A predecessor-successor relationship exists when a transfer occurs and one business acquires all or part of another business. It may arise from the transfer of operating assets, which may include the transfer of employees, or from an internal reorganization of affiliated companies.

Whether or not a predecessor-successor relationship exists depends on the totality of the circumstances. Factors that favor establishment of a such a relationship include, but are not limited to: whether the employers are in the same or a like business; whether the assets were transferred directly; whether multiple types of assets were transferred; whether a significant number or group of employees were transferred; whether the business name continued or was used in some way; whether there was continuity of management; and whether the employers shared one or more owners.

The Employment Security Department must prove by a preponderance of the evidence that a business is the successor, or partial successor, to a predecessor business.

Successor Contribution Rates.

Contribution rates assigned to successor employers vary depending on whether the successor is an employer and other circumstances.

If the successor is an employer at the time of the business transfer, the successor's tax rate is unchanged for the rest of the calendar year. Beginning on January 1 after the transfer (and until the successor qualifies for its own rate), the rate is based on a combination of the successor's and the predecessor's experience.

If the successor is not an employer at the time of the business transfer, the successor's tax rate is the same as the predecessor's tax rate for the rest of the calendar year. Beginning on January 1 after the transfer (and until the successor qualifies for its own rate), the rate depends on whether there is substantial continuity of ownership, control, or management by the successor.

Other provisions address rates assigned to successor employers that simultaneously acquire business from multiple employers with different tax rates, predecessor employers, and employers engaged in "State Unemployment Tax Avoidance" (also referred to as "SUTA dumping").

Summary of Bill:

A predecessor-successor relationship does not exist, and successor contribution rates are not assigned, when a significant purpose of the transfer of the business or its operating assets is for: (1) the employer to move or expand an existing business; or (2) an employer with common ownership to establish a substantially similar business.

This provision is stated to be remedial, and is applied retroactively to January 1, 2009.

Appropriation: None.

Fiscal Note: Requested on January 23, 2012.

Effective Date: The bill takes effect immediately.