

HOUSE BILL REPORT

SSB 6524

As Reported by House Committee On: Commerce & Labor

Title: An act relating to unemployment insurance penalties and contribution rates for employers who are not "qualified employers".

Brief Description: Addressing unemployment insurance penalties and contribution rates for employers who are not "qualified employers."

Sponsors: Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators King, Kohl-Welles, Kastama, Holmquist, Keiser, Honeyford, Regala, Franklin, McDermott, Hewitt and Kline; by request of Employment Security Department).

Brief History:

Committee Activity:

Commerce & Labor: 2/23/10 [DP].

Brief Summary of Substitute Bill

- Modifies certain provisions of the unemployment insurance system for delinquent employers.
- Modifies the experience rated factor for delinquent employers.
- Provides for a lower experience rated factor for delinquent employers who enter a deferred payment contract.
- Modifies the experience rated factor applicable if an employer fails to comply with the terms of the deferred payment contract.
- Subjects employers who knowingly fail to register with the Employment Security Department to a penalty and provides a good cause exemption to such penalty.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

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.

Staff: Rebecca Jones (786-5793) and Jill Reinmuth (786-7134).

Background:

The unemployment compensation system, administered by the Employment Security Department (Department), allows partial wage replacement for workers who are unemployed through no fault of their own. Most employers pay contributions (payroll taxes) into a trust fund to finance the benefits eligible unemployed workers receive.

Tax Rates.

An employer's contribution rate consists of the experience rated factor, the social cost factor, and when the trust fund meets certain conditions, a solvency surcharge. (Currently, there is no solvency surcharge.)

The experience rated factor depends on the employer's rate class. An employer is assigned to one of 40 rate classes based on the employer's layoff experience. The tax rate for class 1 is 0.00 percent and the rate for class 40 is 5.40 percent, with the tax rates for classes 2 through 39 ranging from 0.11 percent to 5.30 percent.

The social cost factor is a percentage of costs not attributable to a specific employer (e.g., benefits paid to workers whose employer went out of business). A flat rate is calculated as the difference between benefits paid and taxes paid, divided by the total taxable payroll. The flat rate is then adjusted for the number of months of benefits in the trust fund, and a graduated rate is based on the employer's rate class.

Experience Rating for Delinquent Employers.

For employers who fail to pay contributions when due without an approved agency-deferred payment contract, the experience rated factor is the rate specified in class 40 plus 0.2 percent (5.6 percent).

If an employer with an approved payment contract fails to pay one of the deferred payments or fails to submit any succeeding tax report and payment in a timely fashion, the employer's experience rate reverts to the rate in class 40 plus 0.2 percent (5.6 percent).

Summary of Bill:

Certain provisions of the unemployment insurance system are modified for employers who fail to pay contributions when due including: (1) the experience rated factor for delinquent employers; (2) the experience rated factor applicable if a payment contract is complied with; (3) the experience rated factor applicable if an employer fails to meet the terms of the payment contract; and (4) a penalty on the employer for a knowing failure to register with the Department.

Experience Rating for Delinquent Employers.

For rate years 2011 and thereafter, the experience rated factor for a delinquent employer is the rate it would have been had the employer not been delinquent plus an additional 1 percent. If the employer is delinquent for two or more consecutive years, the rate is what it would have been had the employer not been delinquent plus an additional 2 percent.

Reduction of Rate Based on a Payment Contract.

For rate years 2011 and thereafter, if the delinquent employer enters an approved agency-deferred payment contract after September 30 of the previous rate year, but within the specified time frame, the experience rated factor will be the rate it would have been had the employer not been delinquent in payment plus an additional 0.5 percent, or if the employer is delinquent in payment for two or more consecutive years, an additional 1.5 percent.

Failure to Comply with the Payment Contract.

If an employer enters a deferred payment contract, but fails to make any of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely fashion, the experience rated factor immediately reverts to the rate it would have been had the employer not been delinquent in payment plus an additional 1 percent, or if the employer is delinquent in payment for two or more consecutive years, an additional 2 percent.

Penalty for Knowingly Failing to Register.

Beginning January 1, 2011, an employer who knowingly fails to register with the Department and obtain an employment security account number is subject to a penalty of not more than \$1,000 per quarter or twice the taxes due per quarter, whichever is greater. The penalty does not apply if the employer can show good cause to believe that it did not have to register with the Department.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, relating to a penalty for knowingly failing to register, which takes effect January 1, 2011.

Staff Summary of Public Testimony:

(In support) There are 40 unemployment tax rates that range from 0.95 to 6.02 and if an employer is delinquent there is an added penalty. The problem with the current law is that when an employer is at the 0.95 rate and is delinquent, the rate goes to 7.09 and when an employer is at the 6.02 rate and is delinquent, the rate goes to that same level of 7.09. Under the bill, if an employer is delinquent, 1 percent would be added to the rate the employer would have had if the employer had not been delinquent, or 2 percent would be added if the

employer was delinquent for a second year. That would mean an employer at the 0.95 rate who is delinquent would have a rate of 1.95 or 2.95. There is also an incentive for the employer to start paying what is due, as entering a payment schedule lowers the delinquent rate by 0.5 percent. This is a good bill considering the fact that there are so many businesses struggling and there is a likelihood of increased delinquency. The bill makes the payment schedule more equitable.

(Opposed) None.

Persons Testifying: Senator King, prime sponsor; and Neil Gorell, Employment Security Department.

Persons Signed In To Testify But Not Testifying: None.