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**HOUSE BILL 1568**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Bergquist, Gregerson, Ormsby, Leavitt, Berry, Macri, Santos, Duerr, Kloba, Paul, and Sullivan

AN ACT Relating to unemployment insurance relief for small businesses; adding a new section to chapter 50.16 RCW; adding new sections to chapter 50.29 RCW; creating new sections; providing expiration dates; and declaring an emergency.

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

NEW SECTION. **Sec.**  (1) The legislature finds that certain businesses in Washington have experienced significant and unanticipated impacts during the COVID-19 pandemic. Small businesses have fewer reserves and fewer resources to rely upon in periods of downturn. Those businesses owned by historically disadvantaged groups, such as women, minority populations, and immigrants, often experience a compounding of those issues experienced across the business community. These businesses form the backbone of Washington's diverse and resilient economy, and their survival is crucial to the state's continuing growth and vitality. For these already disadvantaged small businesses, the economic impacts of the COVID-19 pandemic have been particularly devastating.

(2) The legislature finds that ESSB 5061, passed by the legislature and signed by the governor earlier in the 2021 session, mitigated immediate impacts to employers through caps on the social tax, suspension of the solvency surcharge, and relief of certain benefit charges.

(3) The legislature now intends to address the disproportionate impacts on small businesses beyond the limited time period addressed in ESSB 5061, and particularly those small businesses in industry sectors uniquely impacted by the COVID-19 pandemic. The legislature intends to provide this targeted relief through the one-time application of funds, in order to provide critical support for many of the businesses that are essential to Washington's recovery and ongoing economic vitality, while maintaining a healthy unemployment insurance trust fund for Washington's workers.

NEW SECTION. **Sec.**  A new section is added to chapter 50.16 RCW to read as follows:

(1) The unemployment insurance relief account is created in the custody of the state treasurer. Revenues to the account consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Only the commissioner of the employment security department or the commissioner's designee may authorize expenditures from the account. Expenditures from the account may be used only for reimbursing the unemployment compensation fund created in RCW 50.16.010 for forgiven benefits for COVID-19 impacted businesses pursuant to sections 3 and 4 of this act. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

(2) By July 1, 2022, the commissioner must certify to the state treasurer the amount of any unobligated moneys in the unemployment insurance relief account that were appropriated by the legislature from the general fund during the 2021-2023 fiscal biennium, and the treasurer must transfer those moneys back to the general fund.

NEW SECTION. **Sec.**  A new section is added to chapter 50.29 RCW to read as follows:

(1) By October 1, 2021, the department must determine the forgiven benefits for approved tier 1 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total approved benefits for all approved tier 1 employers may not exceed the available benefits for tier 1.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved tier 1 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a one rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved tier 1 employer" means a contribution paying employer:

(i) With 20 or fewer employees in the state as reported on the employer's fourth quarter report to the department for 2019;

(ii) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by two or more rate classes from rate year 2021 to rate year 2022; and

(iii) Whose North American industry classification system code for rate year 2021 is within "323," "448," "451," "453," "481," "485," "487," "488," "512," "519," "524," "532," "541," "561," "711," "713," "721," "722," "811," "812," and "813."

(c) "Available benefits for tier 1" means $350,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for tier 1 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. **Sec.**  A new section is added to chapter 50.29 RCW to read as follows:

(1) After October 1, 2021, but before November 1, 2021, the department must determine the forgiven benefits for approved tier 2 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total approved benefits for all approved tier 2 employers may not exceed the available benefits for tier 2.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved tier 2 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a two rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved tier 2 employer" means a contribution paying employer:

(i) With more than 20 but fewer than 500 employees in the state as reported on the employer's fourth quarter report to the department for 2019;

(ii) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by three or more rate classes from rate year 2021 to rate year 2022; and

(iii) Whose North American industry classification system code for rate year 2021 is within "323," "448," "451," "453," "481," "485," "487," "488," "512," "519," "524," "532," "541," "561," "711," "713," "721," "722," "811," "812," and "813."

(c) "Available benefits for tier 2" means the sum total of:

(i) The difference between the available benefits for tier 1, as defined in section 3 of this act, and the total approved benefits for approved tier 1 employers, as defined in section 3 of this act; and

(ii) $150,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for tier 2 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. **Sec.**  A new section is added to chapter 50.29 RCW to read as follows:

(1) After November 1, 2021, but before December 1, 2021, the department must determine the forgiven benefits for approved tier 3 employers to be reimbursed by the unemployment insurance relief account instead of charged to the employer's experience rating account. Total approved benefits for all approved tier 3 employers may not exceed the available benefits for tier 3.

(2) The department will not charge the forgiven benefits to the employer's experience rating account. The commissioner must instead transfer from the unemployment insurance relief account to the unemployment compensation fund created in RCW 50.16.010 an amount equal to the forgiven benefits.

(3) For the purposes of this section, the following definitions apply:

(a) "Approved benefits" means benefits paid to employees of an approved tier 3 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a four rate class increase. Approved benefits must not include benefits that were not charged to the employer's experience rating account or benefits otherwise relieved under RCW 50.29.021.

(b) "Approved tier 3 employer" means a contribution paying employer:

(i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has increased by six or more rate classes from rate year 2021 to rate year 2022;

(ii) With fewer than 500 employees in the state as reported on the employer's fourth quarter report to the department for 2019; and

(iii) Who does not meet the definition of approved tier 1 employer under section 3(3) of this act or approved tier 2 employer under section 4(3) of this act.

(c) "Available benefits for tier 3" means the sum total of:

(i) The difference between the available benefits for tier 2, as defined under section 4 of this act, and the total approved benefits for approved tier 2 employers, as defined under section 4 of this act; and

(ii) $100,000,000 of the total amount of money in the unemployment insurance relief account.

(d) "Forgiven benefits" means the approved benefits for an individual employer multiplied by the forgiveness ratio.

(e) "Forgiveness ratio" is computed by dividing the available benefits for tier 3 by the total approved benefits. The forgiveness ratio cannot be more than one.

(f) "Total approved benefits" means the sum total of all approved benefits.

(4) The department must adopt such rules as are necessary to carry out the purposes of this section.

(5) This section expires July 30, 2022.

NEW SECTION. **Sec.**  If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

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

**--- END ---**