

FINAL BILL REPORT

ESSB 6885

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Synopsis as Enacted

Brief Description: Modifying unemployment insurance provisions.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Kohl-Welles, McAuliffe, Thibaudeau, Keiser and Fairley).

Senate Committee on Labor, Commerce, Research & Development

House Committee on Commerce & Labor

Background: The unemployment insurance system is a federal/state program under which employers pay contributions to fund unemployment compensation for unemployed workers. These payments are made under state unemployment laws and the Federal Unemployment Tax Act (FUTA). The FUTA allows the states' employers to receive a tax credit against their federal unemployment tax. The state receives a share of the federal FUTA revenues for administration of its unemployment insurance system, but only if the state maintains an unemployment insurance system in conformity with federal law. Washington's program is administered by the Employment Security Department (ESD).

Unemployment Benefits. Before January of 2004, a claimant's weekly benefit amount (WBA) was 4 percent of the claimant's average wages in the two quarters of the base year in which wages were highest. The 2003 legislation established new methods of calculating the WBA for claims with specified effective dates: *On or after January 4, 2004, and before January 2, 2005:* The WBA was calculated using 4 percent of the claimant's average wages in the three quarters of the base year in which wages were highest; *On or after January 2, 2005:* The WBA is 1 percent of the claimant's total wages in the base year.

For claims with an effective date on or after April 24, 2005, and before July 1, 2007, the claimant's WBA is calculated using 3.85 percent of the claimant's average wages in the two quarters in the base year in which the wages were the highest. The benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of annual wages are not charged to contribution paying employers' experience rating accounts.

The 2003 legislation also repealed a requirement for the unemployment insurance system to be "liberally construed." The 2005 legislation restored this requirement until June 30, 2007.

Unemployment Taxes. *2003 Legislation.* The 2003 legislation created a new unemployment tax system. Beginning with rate year 2005, the unemployment insurance contribution rate for most covered employers is determined by the combined array calculation factor rate and the social cost factor rate, subject to a maximum rate, and solvency surcharge, if any. These rates are determined as follows:

Array calculation factor. Employers are placed in one of 40 rate classes, with rates from 0 percent to 5.4 percent. The assigned rate class depends on the employer's layoff experience.

Social cost factor. A flat social cost rate is calculated as the difference between benefits paid and taxes paid, divided by total taxable payroll. The amount is then adjusted for the months of benefits in the trust fund above 10 months, but the rate may not be less than 0.6 percent. Employers pay a graduated social cost factor rate, ranging from 78 percent to 120 percent of the flat rate, depending on the employer's rate class.

Maximum rate for the sum of the array calculation factor and the social cost factor. For employers in fishing, agriculture, and food and seafood processing, the maximum rate is 6 percent. For employers in all other industries, the maximum rate is 6.5 percent.

Solvency surcharge. Up to an additional 0.2 percent surcharge is added to the contribution rate in the next rate year if the unemployment trust fund has fewer than 6 months of benefits on a specified annual date. Not all benefits paid are charged to the employers' experience rating accounts. By law, noncharging of benefits is required for specified reasons, and these costs are pooled within the system as social costs.

2005 Legislation. For fiscal years 2006 and 2007, the social cost factor rate is zero for employers in agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage.

For tax rate year 2007, the flat social cost factor is the lesser of the rate applicable with the new WBA calculations in effect or the rate that would have been applicable if the WBA had been calculated as 1 percent of a claimant's annual wages.

The formula is adjusted for determining the social cost factor in rate year 2007 to account for benefits that are not effectively charged because of these changes in the social cost factor.

When paying unemployment benefits, beginning in fiscal year 2006 and through calendar year 2007, funds are first requisitioned from the Reed Act funds in the amount of the benefits that are not effectively charged because the social cost factor rate is reduced to zero for certain industries and in the amount of benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of a claimant's annual wages.

Summary: The expiration date for the weekly benefit amount calculation is removed and the use of "two quarter averaging" with a 3.85 multiplier is made permanent. The language requiring liberal construction of the unemployment compensation law is permanently retained.

Benefits are charged to employers as though the weekly benefit amount is 1 percent of wages in all four quarters of the base year.

Tax rates are capped at 5.7 percent for specified industries (agriculture, fishing, food processing, and cold storage) beginning in rate year 2008.

The social cost factor rate is set at zero from July 1, 2005 through December 31, 2007 for certain agricultural industries. (Continues the rate set in HB 2255.)

The flat social cost factor rate reduction calculation (under which the rate is reduced depending on the trust fund balance on September 1) is reduced by the following:

- a maximum reduction of 0.4 and a minimum flat rate of 0.6 percent when there are eleven months of benefits in the trust fund;

- a maximum reduction of 0.4 and a minimum flat rate of 0.5 percent when there are twelve to thirteen months of benefits in the trust fund; and
- a maximum reduction of 0.4 and minimum flat rates of 0.45 percent for rate class one and 0.50 percent for all other employers when there are fourteen or more months of benefits in the trust fund.

The changes in the calculation of the social cost factor rate and the requisitioning of funds from the unemployment trust fund that applied only to rate year 2007 are deleted. The solvency tax applies only if the trust fund balance has fewer than seven months of benefits (instead of six months).

A spouse who voluntarily quits a job to relocate because his or her spouse received a mandatory military transfer could qualify for unemployment compensation if other requirements are met. These changes apply to new claims made on or after July 2, 2006.

Certain provisions contained in Second Engrossed Senate Bill 6097 are reenacted and made retroactive.

ESD is directed to study issues pertaining to repeat episodes of unemployment, rate class 40 employers, employer turnover and fraud prevention and report to the Unemployment Insurance Advisory Committee and the appropriate legislative committees by December 1, 2006.

Votes on Final Passage:

Senate	25	22	
House	97	1	(House amended)
Senate	44	2	(Senate concurred)

Effective: June 7, 2006