

ESSB 5478 - H COMM AMD

By Committee on Appropriations

ADOPTED AND ENGROSSED 04/22/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that certain
4 businesses in Washington have experienced significant and
5 unanticipated impacts during the COVID-19 pandemic. The legislature
6 intends to preemptively minimize the disproportionate impact COVID-19
7 economic closures have had on these businesses.

8 (2) Small businesses in particular have fewer reserves and fewer
9 resources to rely upon in periods of downturn. Those businesses owned
10 by historically disadvantaged groups, such as women, minority
11 populations, and immigrants, often experience disproportionately more
12 distress and burden due to the economic impacts of the COVID-19
13 pandemic compared to their counterparts across the remaining business
14 community. These businesses are absolutely critical to the success of
15 Washington's continued high ratings, number one gross domestic
16 product, and are part of the backbone of Washington's diverse and
17 resilient economy.

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

23 (4) The legislature now intends to address the disproportionate
24 impacts on small and other significantly impacted businesses beyond
25 the limited time period addressed in ESSB 5061. The legislature
26 intends to provide this targeted relief through the one-time
27 application of funds, in order to provide critical support for many
28 of the businesses that are essential to Washington's recovery and
29 ongoing economic vitality, while maintaining a healthy unemployment
30 insurance trust fund for Washington's workers.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.16
2 RCW to read as follows:

3 (1) The unemployment insurance relief account is created in the
4 custody of the state treasurer. Revenues to the account consist of
5 appropriations and transfers by the legislature and all other funding
6 directed for deposit into the account. Only the commissioner of the
7 employment security department or the commissioner's designee may
8 authorize expenditures from the account. Expenditures from the
9 account may be used only for reimbursing the unemployment
10 compensation fund created in RCW 50.16.010 for forgiven benefits for
11 COVID-19 impacted businesses pursuant to sections 3, 4, 5, 6, 7, 8,
12 and 9 of this act. The account is subject to the allotment procedures
13 under chapter 43.88 RCW, but an appropriation is not required for
14 expenditures.

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

20 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.29
21 RCW to read as follows:

22 (1) By December 20, 2021, the department must determine the
23 forgiven benefits for approved category 1 employers to be reimbursed
24 by the unemployment insurance relief account instead of charged to
25 the employer's experience rating account. Total forgiven benefits for
26 all approved category 1 employers may not exceed the available
27 benefits for category 1.

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

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

35 (a) "Approved benefits" means benefits paid to employees of an
36 approved category 1 employer during the fiscal year ending June 30,
37 2021, not to exceed an amount that would reduce the employer's rate
38 class increase to no more than a two rate class increase. Approved
39 benefits must not include benefits that were not charged to the

1 employer's experience rating account or benefits otherwise relieved
2 under RCW 50.29.021.

3 (b) "Approved category 1 employer" means a contribution paying
4 employer:

5 (i) With 20 or fewer employees in the state as reported on the
6 employer's fourth quarter report to the department for 2020;

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

10 (iii) Whose North American industry classification system code
11 for rate year 2021 is within "323," "331," "448," "451," "453,"
12 "481," "485," "487," "512," "711," "712," "713," "721," "722," "812,"
13 and "814."

14 (c) "Available benefits for category 1" means \$100,000,000 of the
15 total amount of money in the unemployment insurance relief account.

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

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

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

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

25 (5) This section expires July 30, 2022.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.29
27 RCW to read as follows:

28 (1) By December 20, 2021, the department must determine the
29 forgiven benefits for approved category 2 employers to be reimbursed
30 by the unemployment insurance relief account instead of charged to
31 the employer's experience rating account. Total forgiven benefits for
32 all approved category 2 employers may not exceed the available
33 benefits for category 2.

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

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

3 (a) "Approved benefits" means benefits paid to employees of an
4 approved category 2 employer during the fiscal year ending June 30,
5 2021, not to exceed an amount that would reduce the employer's rate
6 class increase to no more than a two rate class increase. Approved
7 benefits must not include benefits that were not charged to the
8 employer's experience rating account or benefits otherwise relieved
9 under RCW 50.29.021.

10 (b) "Approved category 2 employer" means a contribution paying
11 employer:

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

15 (ii) Whose North American industry classification system code for
16 rate year 2021 is within "323," "331," "448," "451," "453," "481,"
17 "485," "487," "512," "711," "712," "713," "721," "722," "812," and
18 "814"; and

19 (iii) Who does not meet the definition of approved category 1
20 employer under section 3(3) of this act.

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

22 (i) The difference between the available benefits for category 1,
23 as defined in section 3 of this act, and the total forgiven benefits
24 for approved category 1 employers, as defined in section 3 of this
25 act; and

26 (ii) \$175,000,000 of the total amount of money in the
27 unemployment insurance relief account.

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

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

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

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

37 (5) This section expires July 30, 2022.

38 NEW SECTION. **Sec. 5.** A new section is added to chapter 50.29
39 RCW to read as follows:

1 (1) By December 20, 2021, the department must determine the
2 forgiven benefits for approved category 3 employers to be reimbursed
3 by the unemployment insurance relief account instead of charged to
4 the employer's experience rating account. Total forgiven benefits for
5 all approved category 3 employers may not exceed the available
6 benefits for category 3.

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

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

14 (a) "Approved benefits" means benefits paid to employees of an
15 approved category 3 employer during the fiscal year ending June 30,
16 2021, not to exceed an amount that would reduce the employer's rate
17 class increase to no more than a three rate class increase. Approved
18 benefits must not include benefits that were not charged to the
19 employer's experience rating account or benefits otherwise relieved
20 under RCW 50.29.021.

21 (b) "Approved category 3 employer" means a contribution paying
22 employer:

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

26 (ii) With 20 or fewer employees in the state as reported on the
27 employer's fourth quarter report to the department for 2020; and

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

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

32 (i) The difference between the available benefits for category 2,
33 as defined under section 4 of this act, and the total forgiven
34 benefits for approved category 2 employers, as defined under section
35 4 of this act; and

36 (ii) \$75,000,000 of the total amount of money in the unemployment
37 insurance relief account.

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

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

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

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

8 (5) This section expires July 30, 2022.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.29
10 RCW to read as follows:

11 (1) By December 20, 2021, the department must determine the
12 forgiven benefits for approved category 4 employers to be reimbursed
13 by the unemployment insurance relief account instead of charged to
14 the employer's experience rating account. Total forgiven benefits for
15 all approved category 4 employers may not exceed the available
16 benefits for category 4.

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

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

24 (a) "Approved benefits" means benefits paid to employees of an
25 approved category 4 employer during the fiscal year ending June 30,
26 2021, not to exceed an amount that would reduce the employer's rate
27 class increase to no more than a three rate class increase. Approved
28 benefits must not include benefits that were not charged to the
29 employer's experience rating account or benefits otherwise relieved
30 under RCW 50.29.021.

31 (b) "Approved category 4 employer" means a contribution paying
32 employer:

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

36 (ii) With at least 21 but fewer than 5,000 employees in the state
37 as reported on the employer's fourth quarter report to the department
38 for 2020; and

1 (iii) Who does not meet the definition of approved category 1
2 employer under section 3(3) of this act, approved category 2 employer
3 under section 4(3) of this act, or approved category 3 employer under
4 section 5(3) of this act.

5 (c) "Available benefits for category 4" means the sum total of:

6 (i) The difference between the available benefits for category 3,
7 as defined under section 5 of this act, and the total forgiven
8 benefits for approved category 3 employers, as defined under section
9 5 of this act; and

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

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

14 (e) "Forgiveness ratio" is computed by dividing the available
15 benefits for category 4 by the total approved benefits. The
16 forgiveness ratio cannot be more than one.

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

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

21 (5) This section expires July 30, 2022.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 50.29
23 RCW to read as follows:

24 (1) If moneys remain in the unemployment insurance relief account
25 after the department determines the forgiven benefits for all
26 approved employers pursuant to sections 3 through 6 of this act, then
27 by December 21, 2021, the department must again determine any
28 forgiven benefits for approved category 1 employers to be reimbursed
29 by the unemployment insurance relief account instead of charged to
30 the employer's experience rating account. Total forgiven benefits for
31 all approved category 1 employers may not exceed the available
32 benefits for category 1.

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

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

1 (a) "Approved benefits" means any remaining benefits paid to
2 employees of an approved category 1 employer during the fiscal year
3 ending June 30, 2021, that were not previously forgiven under section
4 3 of this act, not to exceed an amount that would reduce the
5 employer's rate class increase to no more than a two rate class
6 increase. Approved benefits must not include benefits that were not
7 charged to the employer's experience rating account or benefits
8 otherwise relieved under RCW 50.29.021.

9 (b) "Approved category 1 employer" has the same meaning as
10 defined in section 3 of this act.

11 (c) "Available benefits for category 1" means the total amount of
12 money remaining in the unemployment insurance relief account after
13 benefits are forgiven according to sections 3 through 6 of this act.

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

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

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

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

23 (5) This section expires July 30, 2022.

24 NEW SECTION. **Sec. 8.** A new section is added to chapter 50.29
25 RCW to read as follows:

26 (1) If moneys remain in the unemployment insurance relief account
27 after the department determines the forgiven benefits for approved
28 category 1 employers pursuant to section 7 of this act, the
29 department must again determine any forgiven benefits for approved
30 category 2 employers to be reimbursed by the unemployment insurance
31 relief account instead of charged to the employer's experience rating
32 account. Total forgiven benefits for all approved category 2
33 employers may not exceed the available benefits for category 2.

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

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

3 (a) "Approved benefits" means any remaining benefits paid to
4 employees of an approved category 2 employer during the fiscal year
5 ending June 30, 2021, that were not previously forgiven under section
6 4 of this act, not to exceed an amount that would reduce the
7 employer's rate class increase to no more than a two rate class
8 increase. Approved benefits must not include benefits that were not
9 charged to the employer's experience rating account or benefits
10 otherwise relieved under RCW 50.29.021.

11 (b) "Approved category 2 employer" has the same meaning as
12 defined in section 4 of this act.

13 (c) "Available benefits for category 2" means the difference
14 between the available benefits for category 1, as defined in section
15 7 of this act, and the total forgiven benefits for approved category
16 1 employers, as defined in section 7 of this act.

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

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

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

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

26 (5) This section expires July 30, 2022.

27 NEW SECTION. **Sec. 9.** A new section is added to chapter 50.29
28 RCW to read as follows:

29 (1) If moneys remain in the unemployment insurance relief account
30 after the department determines the forgiven benefits for approved
31 category 2 employers pursuant to section 8 of this act, the
32 department must again determine any forgiven benefits for approved
33 category 3 employers to be reimbursed by the unemployment insurance
34 relief account instead of charged to the employer's experience rating
35 account. Total forgiven benefits for all approved category 3
36 employers may not exceed the available benefits for category 3.

37 (2) The department will not charge the forgiven benefits to the
38 employer's experience rating account. The commissioner must instead
39 transfer from the unemployment insurance relief account to the

1 unemployment compensation fund created in RCW 50.16.010 an amount
2 equal to the forgiven benefits.

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

5 (a) "Approved benefits" means any remaining benefits paid to
6 employees of an approved category 3 employer during the fiscal year
7 ending June 30, 2021, that were not previously forgiven under section
8 5 of this act, not to exceed an amount that would reduce the
9 employer's rate class increase to no more than a three rate class
10 increase. Approved benefits must not include benefits that were not
11 charged to the employer's experience rating account or benefits
12 otherwise relieved under RCW 50.29.021.

13 (b) "Approved category 3 employer" has the same meaning as
14 defined in section 5 of this act.

15 (c) "Available benefits for category 3" means the difference
16 between the available benefits for category 2, as defined under
17 section 8 of this act, and the total forgiven benefits for approved
18 category 2 employers, as defined under section 8 of this act.

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

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

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

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

28 (5) This section expires July 30, 2022.

29 NEW SECTION. **Sec. 10.** A new section is added to chapter 50.29
30 RCW to read as follows:

31 (1) By September 1st of each year, the department must determine
32 which employers have not paid all contributions, penalties, or
33 interest due, and have not entered into a department-approved
34 deferred payment contract, as of that date.

35 (2) By September 1st of each year, for each employer meeting the
36 criteria in subsection (1) of this section, the department must
37 notify the employer of the availability of deferred payment contracts
38 with the department. The department must provide technical, and
39 culturally and linguistically relevant, assistance as needed to the

1 employer in navigating the process for entering into a department-
2 approved payment contract.

3 NEW SECTION. **Sec. 11.** If any part of this act is found to be in
4 conflict with federal requirements that are a prescribed condition to
5 the allocation of federal funds to the state or the eligibility of
6 employers in this state for federal unemployment tax credits, the
7 conflicting part of this act is inoperative solely to the extent of
8 the conflict, and the finding or determination does not affect the
9 operation of the remainder of this act. Rules adopted under this act
10 must meet federal requirements that are a necessary condition to the
11 receipt of federal funds by the state or the granting of federal
12 unemployment tax credits to employers in this state.

13 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
14 preservation of the public peace, health, or safety, or support of
15 the state government and its existing public institutions, and takes
16 effect immediately."

17 Correct the title.

--- END ---