

HOUSE BILL REPORT

ESSB 5061

As Passed House:
January 29, 2021

Title: An act relating to unemployment insurance.

Brief Description: Concerning unemployment insurance.

Sponsors: Senate Committee on Labor, Commerce & Tribal Affairs (originally sponsored by Senators Keiser, Conway, Billig, Dhingra, King, Nguyen, Saldaña, Stanford and Wilson, C.; by request of Office of the Governor).

Brief History:

Committee Activity:

None.

Floor Activity:

Passed House: 1/29/21, 89-8.

Brief Summary of Engrossed Substitute Bill

- Limits unemployment insurance rate increases by: (1) capping the social tax; (2) suspending the solvency surcharge tax; and (3) relieving certain benefit charges.
- Increases access to benefits by: (1) expanding eligibility for those in high-risk households; and (2) waiving the waiting period when federally reimbursed.
- Modifies weekly benefit amount thresholds by: (1) increasing the minimum from 15 to 20 percent of the average weekly wage; and (2) limiting benefits to a person's weekly wage.
- Ends deductions of lump sum pensions from weekly benefit amounts.
- Modifies the voluntary contribution and shared work programs, and certain training eligibility.

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

- Requires a report from the Employment Security Department to the Legislature.
- Makes other technical and clarifying changes.

Staff: Lily Smith (786-7175).

Background:

Unemployment Insurance Benefits.

General Eligibility.

An unemployed individual (claimant) is eligible to receive unemployment insurance (UI) benefits if the individual: (1) worked at least 680 hours in the base year; (2) was separated from employment through no fault of the claimant's or quit work for good cause; and (3) is able to work, available to work, and is actively searching for suitable work. The Employment Security Department (ESD) administers the UI program.

Waiting Period.

A claimant must be unemployed for a one-week waiting period before being eligible for UI benefits. Under the federal Coronavirus Aid, Relief, and Economic Security Act (CARES Act) and the Continued Assistance Act, the federal government has reimbursed 100 percent of the UI benefits for this waiting period through 2020, and 50 percent through March 14, 2021. During most of the COVID-19 pandemic, the one-week waiting period in the state was waived.

Weekly Benefit Amounts.

A claimant's weekly benefit amount (WBA) is 3.85 percent of the average quarterly wages of the individual's total wages during the two highest quarters of the individual's base year. The minimum WBA is 15 percent of the average weekly wage (AWW). The maximum WBA is the greater of \$496 or 63 percent of the AWW, calculated annually by the ESD. Beginning July 1, 2020, the maximum and minimum WBAs were \$844 and \$201.

Employer Taxes.

Payroll taxes generally finance UI benefits. An employer's tax rate includes an experience-rated factor (experience rating), a social-cost factor (social tax), and under certain conditions, a solvency surcharge.

Some entities may qualify as reimbursable employers, and reimburse the ESD for UI

benefits actually paid instead of contributing by payroll taxes.

Experience Rating.

Unemployment insurance benefits paid are charged to the experience rating of base year employers on a pro rata basis. A benefit ratio is computed by dividing the total amount of UI benefits charged to the account of the employer by the taxable payrolls. Each employer is assigned to an experience rate class according to their benefit ratio.

Some UI benefits, such as those paid for certain good cause quits, are charged only to the separating employer, or are not charged to any employer. Other UI benefits may be noncharged if the employer requests relief from charging.

Social Tax and Solvency Surcharge.

The social tax is generally calculated by the difference between total UI benefits paid and taxes paid, divided by the total payroll. The social tax is graduated for employers based on their experience rate classes, with a maximum rate of 1.22 percent.

A solvency surcharge applies if there are fewer than seven months of UI benefits in the UI trust fund.

Other.

Voluntary Contribution Program.

An employer who has moved up at least 12 rate classes from the previous tax- rate year may make a voluntary contribution by February 15 of the rate year to cancel part or all of the UI benefits charged in the two most recent years, and receive a new benefit ratio. A 10-percent surcharge applies to voluntary contributions. The minimum voluntary contribution must result in a recomputed benefit ratio at least four rate classes lower than the original.

Shared Work Program.

A shared work compensation plan allows employers to reduce employee hours and have those employees receive partial UI benefits to replace a portion of their lost wages. The ESD approves plans, which must include at least one employee.

Under the CARES Act and the Continued Assistance Act, the federal government has reimbursed 100 percent of the shared work benefits paid through March 14, 2021. During most of the COVID-19 pandemic, the statutory requirement to charge the shared work benefits to contribution paying or reimbursable employers was waived.

Lump Sum Retirement Payment Deduction.

Lump sum retirement payments are prorated over the life expectancy of a claimant and deducted from the WBA.

Trade Adjustment Assistance Program.

The Trade Adjustment Assistance program (TAA) is a federal program where certified workers that have lost their jobs due to international trade can receive re-employment and training assistance. Through a combination of UI benefits and trade readjustment allowances, participants may receive UI benefits for up to 130 weeks. New federal rules for the program were finalized and effective September 21, 2020.

Summary of Bill:

Unemployment Insurance Benefits.

Eligibility for High-Risk Individuals.

After April 4, 2021, and during the weeks of a public health emergency, an individual who is able to work from home and is high risk or resides with someone who is high risk:

- is eligible for UI benefits after leaving work voluntarily (quit work for good cause) when unable to work from home for the current employer; and
- may meet the able and available for work requirements if available and actively seeking suitable work which can be done from home.

The ESD must consider the degree of risk to the health of those residing with the individual for the suitable work requirement.

Waiting Period.

The waiting period is waived for any weeks when it is fully paid or fully reimbursed by the federal government. The ESD may waive the waiting period when partially paid or partially reimbursed by the federal government.

Weekly Benefit Amounts.

For claims on or after July 1, 2021, the minimum WBA increases to 20 percent of the AWW. For claims on or after January 2, 2022, or a later date determined necessary for federal conformity by the ESD, an individual may not receive a WBA that exceeds the individual's weekly wage.

Employer Taxes.

Experience Rating.

The following UI benefits are not charged to an employer:

- UI benefits during a public health emergency for high-risk individuals unable to work from home for the current employer;
- shared work benefits paid or reimbursed by the federal government;
- UI benefits paid for all weeks starting with the week ending March 28, 2020 through May 30, 2020; and
- UI benefits paid for the waiting period when fully paid or reimbursed by the federal government. The ESD may by rule elect not to charge these UI benefits when partially paid or reimbursed.

An employer may request that UI benefits not be charged when they are a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility, and the closure resulted from the presence of any dangerous, contagious, or infectious disease that is the subject of a public health emergency at the location.

Social Tax and Solvency Surcharge.

The maximum social tax for the following rate years is:

- 0.50 percent for 2021;
- 0.75 percent for 2022;
- 0.80 percent for 2023;
- 0.85 percent for 2024; and
- 0.90 percent for 2025.

The solvency surcharge is suspended from 2021 to 2025.

Other.

Voluntary Contribution Program.

Until May 31, 2026:

- employers who have moved up at least eight rate classes may use the program;
- the 10 percent surcharge is suspended;
- the payment deadline is extended to March 31; and
- the minimum amount of a voluntary contribution must result in a recomputed benefit ratio at least two rate classes lower than the original rate class.

Shared Work Program.

Shared work employers must have at least two employees covered in the program. Shared work employees may participate in training, including employer-sponsored training or ESD-approved training funded under the Workforce Innovation and Opportunity Act, to enhance job skills.

Lump Sum Retirement Payment Deduction.

A lump sum payment from certain retirement plans is not deducted from the WBA.

Trade Adjustment Assistance Program.

Changes are made to the provisions related to an adversely affected worker's UI benefit eligibility related to enrollment in an approved training to reflect the new federal rules under the TAA.

Report.

Annually, beginning on December 1, 2021 through 2025, the ESD, in consultation with the Unemployment Insurance Advisory Committee, must provide a report to the Legislature and the Governor that provides the status of the trust fund and analyzes the impact of the minimum WBA increase.

By December 1, 2021, the ESD must provide a report to the Legislature and the Governor that reviews the amount of wages subject to tax.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill contains an emergency clause and takes effect immediately.