

HOUSE BILL REPORT

ESSB 5873

As Passed House:

March 1, 2022

Title: An act relating to unemployment insurance.

Brief Description: Concerning the social cost factor in unemployment insurance premiums.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Keiser, Billig, Conway, Das, Dhingra, King, Kuderer, Lias, Lovick, Mullet, Nguyen, Nobles, Randall, Robinson, Rolfes, Stanford and Wilson, C.).

Brief History:

Committee Activity:

Labor & Workplace Standards: 2/16/22, 2/18/22 [DP].

Floor Activity:

Passed House: 3/1/22, 95-0.

Brief Summary of Engrossed Substitute Bill

- Decreases the maximum Unemployment Insurance (UI) social cost factor for 2022 and 2023.
- Sets a maximum UI rate class for the purposes of the percentage of the social cost factor to be paid by small businesses in 2023.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 7 members: Representatives Sells, Chair; Berry, Vice Chair; Hoff, Ranking Minority Member; Mosbrucker, Assistant Ranking Minority Member; Bronoske, Harris and Ortiz-Self.

Staff: Lily Smith (786-7175).

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.

Background:

Unemployment Insurance Social Cost Factor.

Payroll taxes generally finance unemployment insurance (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.

The social tax is calculated in two parts:

- by the difference between total UI benefits paid and taxes paid, divided by the total payroll, not to exceed 0.75 percent in 2022 and 0.80 percent in 2023; and
- graduated for each employer based on their experience rate class which ranges from 40 to 120 percent of the social tax.

Unemployment Insurance Misaligned Cross-Reference.

Engrossed Substitute Senate Bill (ESSB) 5061, enacted in 2021, amended multiple sections of the unemployment insurance title. In addition to its substantive changes, ESSB 5061 also removed obsolete statutory language and made other technical corrections. The removal of obsolete language in the section dealing with employer charging resulted in a misaligned cross-reference in a related section dealing with notification of charging to employers.

Summary of Bill:

Unemployment Insurance Social Cost Factor.

In 2022 the maximum social tax is reduced from 0.75 percent to 0.50 percent. In 2023 the maximum social tax is reduced from 0.80 percent to 0.70 percent.

In 2023 employers with 10 or fewer employees with a graduated social tax factor in rate class 8 or higher will be capped at rate class 7.

Unemployment Insurance Misaligned Cross-Reference.

The cross-reference within the UI section dealing with notification of charging to employers is corrected to align with its effect prior to the passage of ESSB 5061.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Last year presented a real crisis, and legislation last session reduced some of the impact on employers, including lowering the cap on the social tax. This year it was discovered that the social tax was disproportionately impacting smaller employers.

Employers are still paying significantly more in UI now, while revenue is down, than they were before the pandemic. Small businesses often did the right thing by keeping workers on payroll, but are still paying these costs. This bill will help that by temporarily reducing the social tax cap for all employers, plus some additional help for the small employers. It is a logical next step in helping us recover from the pandemic. This does not impact the General Fund. The UI trust fund has rebounded and is now healthy, which enables us to do this modest relief while maintaining solvency.

(Opposed) This bill does not go far enough to address the significant costs borne by employers forced to close as a result of the Governor's proclamations. Tax increases are the result of both the social tax and the experience tax, which has significantly increased due to the forced closures. Employers should not have the responsibility for these costs, but that is how the Employment Security Department is interpreting the law. This will increase tax rates for years to come, essentially as a penalty for compliance with the proclamations. The statute should also be amended to clarify that benefit charges resulting from compliance with the proclamations are excluded from experience ratings.

Persons Testifying: (In support) Senator Karen Keiser, prime sponsor; Robert Battles, Association of Washington Business; Bruce Beckett, Washington Retail Association; Julia Gorton, Washington Hospitality Association; and Patrick Connor, National Federation of Independent Business.

(Opposed) Clark Vitek, Evergreen Tennis.

Persons Signed In To Testify But Not Testifying: None.