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ENGROSSED SUBSTITUTE HOUSE BILL 1733

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State of Washington

67th Legislature

2022 Regular Session

**By** House Appropriations (originally sponsored by Representatives Paul, Macri, J. Johnson, Leavitt, Bronoske, Chapman, Senn, Berry, Cody, Dolan, Fey, Peterson, Ryu, Santos, Shewmake, Wylie, Simmons, Callan, Chopp, Slatter, Ramos, Bergquist, Tharinger, Valdez, Thai, Pollet, Morgan, Taylor, Stonier, Ortiz-Self, Gregerson, Riccelli, Davis, Ormsby, Duerr, Orwall, Bateman, Kloba, and Frame)

READ FIRST TIME 01/14/22.

1 AN ACT Relating to establishing voluntary exemptions to the long-  
2 term services and supports trust program for certain populations  
3 identified in the long-term services and supports trust commission's  
4 2022 recommendations report, specifically including exemptions only  
5 for veterans with a service-connected disability of 70 percent or  
6 higher, the spouses or domestic partners of active duty service  
7 members, persons residing outside of Washington while working in  
8 Washington, and persons working in the United States under a  
9 temporary, nonimmigrant work visa; amending RCW 50B.04.080 and  
10 50B.04.050; and adding a new section to chapter 50B.04 RCW.

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

12 **Sec. 1.** RCW 50B.04.080 and 2020 c 98 s 4 are each amended to  
13 read as follows:

14 (1) (~~Beginning~~) Unless otherwise exempted pursuant to this  
15 chapter, beginning January 1, 2022, the employment security  
16 department shall assess for each individual in employment with an  
17 employer a premium based on the amount of the individual's wages. The  
18 initial premium rate is (~~(fifty-eight hundredths of one)~~) .58 percent  
19 of the individual's wages. Beginning January 1, 2024, and biennially  
20 thereafter, the premium rate shall be set by the pension funding  
21 council at a rate no greater than (~~(fifty-eight hundredths of~~

1 ~~one~~) .58 percent. In addition, the pension funding council must set  
2 the premium rate at the lowest amount necessary to maintain the  
3 actuarial solvency of the long-term services and supports trust  
4 account created in RCW 50B.04.100 in accordance with recognized  
5 insurance principles and designed to attempt to limit fluctuations in  
6 the premium rate. To facilitate the premium rate setting the office  
7 of the state actuary must perform a biennial actuarial audit and  
8 valuation of the fund and make recommendations to the pension funding  
9 council.

10 (2) (a) The employer must collect from the employees the premiums  
11 provided under this section through payroll deductions and remit the  
12 amounts collected to the employment security department.

13 (b) In collecting employee premiums through payroll deductions,  
14 the employer shall act as the agent of the employees and shall remit  
15 the amounts to the employment security department as required by this  
16 chapter.

17 (3) Nothing in this chapter requires any party to a collective  
18 bargaining agreement in existence on October 19, 2017, to reopen  
19 negotiations of the agreement or to apply any of the responsibilities  
20 under this chapter unless and until the existing agreement is  
21 reopened or renegotiated by the parties or expires.

22 (4) (a) Premiums shall be collected in the manner and at such  
23 intervals as provided in this chapter and directed by the employment  
24 security department.

25 (b) To the extent feasible, the employment security department  
26 shall use the premium assessment, collection, and reporting  
27 procedures in Title 50A RCW.

28 (5) The employment security department shall deposit all premiums  
29 collected in this section in the long-term services and supports  
30 trust account created in RCW 50B.04.100.

31 (6) Premiums collected in this section are placed in the trust  
32 account for the individuals who become eligible for the program.

33 (7) If the premiums established in this section are increased,  
34 the legislature shall notify each qualified individual by mail that  
35 the person's premiums have been increased, describe the reason for  
36 increasing the premiums, and describe the plan for restoring the  
37 funds so that premiums are returned to ~~((fifty-eight hundredths of~~  
38 ~~one~~) .58 percent of the individual's wages.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 50B.04  
2    RCW to read as follows:

3        (1) Beginning January 1, 2023, the employment security department  
4    shall accept and approve applications for voluntary exemptions from  
5    the premium assessment under RCW 50B.04.080 for any employee who  
6    meets criteria established by the employment security department for  
7    an exemption based on the employee's status as:

8        (a) A veteran of the United States military who has been rated by  
9    the United States department of veterans affairs as having a service-  
10   connected disability of 70 percent or greater;

11       (b) A spouse or registered domestic partner of an active duty  
12   service member in the United States armed forces whether or not  
13   deployed or stationed within or outside of Washington;

14       (c) An employee who holds a nonimmigrant visa for temporary  
15   workers, as recognized by federal law, and is employed by an employer  
16   in Washington; or

17       (d) An employee who is employed by an employer in Washington, but  
18   maintains a permanent address outside of Washington as the employee's  
19   primary location of residence.

20       (2) The employment security department shall adopt criteria,  
21   procedures, and rules for verifying the information submitted by the  
22   applicant for an exemption under subsection (1) of this section.

23       (3) An employee who receives an exemption under subsection (1) of  
24   this section may not become a qualified individual or eligible  
25   beneficiary and is permanently ineligible for coverage under this  
26   title, unless the exemption has been discontinued as provided in  
27   subsection (4), (5), or (6) of this section.

28       (4)(a) An exemption granted in accordance with the conditions  
29   under subsection (1)(b) of this section must be discontinued within  
30   90 days of:

31       (i) The discharge or separation from military service of the  
32   employee's spouse or registered domestic partner; or

33       (ii) The dissolution of the employee's marriage or registered  
34   domestic partnership with the active duty service member.

35       (b) Within 90 days of the occurrence of either of the events in  
36   (a) of this subsection, an employee who has received an exemption  
37   under subsection (1) of this section shall:

38       (i) Notify the employment security department that the exemption  
39   must be discontinued because of the occurrence of either of the  
40   events in (a) of this subsection; and

1 (ii) Notify the employee's employer that the employee is no  
2 longer exempt and that the employer must begin collecting premiums  
3 from the employee in accordance with RCW 50B.04.080.

4 (c) Upon notification to the employment security department and  
5 the employer, premium assessments established under RCW 50B.04.080  
6 must begin and the employee may become a qualified individual or  
7 eligible beneficiary upon meeting the requirements established in  
8 this chapter.

9 (d) Failure to begin paying the premium established under RCW  
10 50B.04.080 within 90 days of the occurrence of either of the events  
11 in (a) of this subsection shall result in the payment of any unpaid  
12 premiums from the employee, with interest at the rate of one percent  
13 per month or fraction thereof, by the employee to the employment  
14 security department from the date on which the payment should have  
15 begun.

16 (5)(a) An exemption granted in accordance with the conditions  
17 under subsection (1)(c) of this section must be discontinued within  
18 90 days of an employee changing the employee's nonimmigrant visa for  
19 temporary workers status to become a permanent resident or citizen  
20 employed in Washington.

21 (b) Within 90 days of the employee changing the employee's  
22 nonimmigrant visa for temporary workers status to become a permanent  
23 resident or citizen employed in Washington, the employee who has  
24 received an exemption under subsection (1)(c) of this section shall:

25 (i) Notify the employment security department that the employee  
26 no longer holds a nonimmigrant visa for temporary workers and is a  
27 permanent resident or citizen employed in Washington and the  
28 exemption must be discontinued; and

29 (ii) Notify the employee's employer that the employee no longer  
30 holds a nonimmigrant visa for temporary workers and is a permanent  
31 resident or citizen employed in Washington, and that the employer  
32 must begin collecting premiums from the employee in accordance with  
33 RCW 50B.04.080.

34 (c) Upon notification to the employment security department and  
35 the employer, premium assessments established under RCW 50B.04.080  
36 must begin and the employee may become a qualified individual or  
37 eligible beneficiary upon meeting the requirements established in  
38 this chapter.

39 (d) Failure to begin paying the premium established under RCW  
40 50B.04.080 within 90 days of an employee no longer holding a

1 nonimmigrant visa for temporary workers and becoming a permanent  
2 resident or citizen employed in Washington shall result in the  
3 payment of any unpaid premiums from the employee, with interest at  
4 the rate of one percent per month or fraction thereof, by the  
5 employee to the employment security department from the date on which  
6 the payment should have begun.

7 (6) (a) An exemption granted in accordance with the conditions  
8 under subsection (1)(d) of this section must be discontinued within  
9 90 days of an employee establishing a permanent address within  
10 Washington as the employee's primary location of residence.

11 (b) Within 90 days of the employee establishing a permanent  
12 address within Washington as the employee's primary location of  
13 residence, the employee who has received an exemption under  
14 subsection (1)(d) of this section shall:

15 (i) Notify the employment security department that the employee  
16 is residing in Washington and the exemption must be discontinued; and

17 (ii) Notify the employee's employer that the employee is no  
18 longer exempt and that the employer must begin collecting premiums  
19 from the employee in accordance with RCW 50B.04.080.

20 (c) Upon notification to the employment security department and  
21 the employer, premium assessments established under RCW 50B.04.080  
22 must begin and the employee may become a qualified individual or  
23 eligible beneficiary upon meeting the requirements established in  
24 this chapter.

25 (d) Failure to begin paying the premium established under RCW  
26 50B.04.080 within 90 days of an employee establishing a permanent  
27 address within Washington as the employee's primary location of  
28 residence shall result in the payment of any unpaid premiums from the  
29 employee, with interest at the rate of one percent per month or  
30 fraction thereof, by the employee to the employment security  
31 department from the date on which the payment should have begun.

32 (7) Exempt employees are not entitled to a refund of any premium  
33 deductions made before the effective date of an approved exemption,  
34 except for premiums collected prior to the effective date of the  
35 premium assessment under RCW 50B.04.080.

36 (8) An employee who has received an exemption pursuant to this  
37 section shall provide written notification to all current and future  
38 employers of an approved exemption.

39 (9) If an exempt employee fails to notify an employer of an  
40 exemption, the exempt employee is not entitled to a refund of any

1 premium deductions made before notification is provided, except for  
2 premiums collected prior to the effective date of the premium  
3 assessment under RCW 50B.04.080.

4 (10) Employers may not deduct premiums after being notified by an  
5 employee of an approved exemption issued under this section.

6 (a) Employers shall retain written notifications of exemptions  
7 received from employees.

8 (b) An employer who deducts premiums after being notified by the  
9 employee of an exemption is solely responsible for refunding to the  
10 employee any premiums deducted after the notification.

11 (c) The employer is not entitled to a refund from the employment  
12 security department for any premiums remitted to the employment  
13 security department that were deducted from exempt employees.

14 (11) The provisions of RCW 50B.04.085 do not apply to the  
15 exemptions issued pursuant to this section.

16 (12) The employment security department shall adopt rules  
17 necessary to implement and administer the activities specified in  
18 this section related to the program, including rules on the  
19 submission and processing of applications under this section.

20 **Sec. 3.** RCW 50B.04.050 and 2021 c 113 s 4 are each amended to  
21 read as follows:

22 (1) The employment security department shall deem a person to be  
23 a qualified individual as provided in this chapter if the person has  
24 paid the long-term services and supports premiums required by RCW  
25 50B.04.080 for the equivalent of either:

26 (a) A total of ten years without interruption of five or more  
27 consecutive years; or

28 (b) Three years within the last six years from the date of  
29 application for benefits.

30 (2) When deeming a person to be a qualified individual, the  
31 employment security department shall require that the person have  
32 worked at least five hundred hours during each of the ten years in  
33 subsection (1)(a) of this section or each of the three years in  
34 subsection (1)(b) of this section.

35 (3) An exempt employee may never be deemed to be a qualified  
36 individual, unless the employee's exemption was discontinued under  
37 section 2 of this act.

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