
SUBSTITUTE SENATE BILL 5478

State of Washington

67th Legislature

2021 Regular Session

By Senate Ways & Means (originally sponsored by Senators Keiser, Mullet, Billig, Cleveland, Conway, Das, Hunt, King, Kuderer, Lias, Lovelett, Nguyen, Randall, Rolfes, Saldaña, Stanford, Van De Wege, and Wilson, C.)

READ FIRST TIME 04/02/21.

1 AN ACT Relating to unemployment insurance relief for certain
2 employers; adding a new section to chapter 50.16 RCW; adding new
3 sections to chapter 50.29 RCW; creating new sections; providing
4 expiration dates; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** Amid unprecedented and ongoing stresses on
7 our unemployment compensation fund and a sharp increase in the need
8 for benefits during the COVID-19 public health emergency, the
9 legislature intends to minimize the impact of public health
10 precautionary measures on certain employers and the resulting impact
11 on the experience rate component of their unemployment insurance
12 premium rate. The first bill passed by the 2021 legislature and
13 signed by the governor, Engrossed Substitute Senate Bill No. 5061,
14 provided immediate relief to all employers by noncharging \$1.2
15 billion in benefits paid during the 11 weeks of the initial COVID-19
16 closures, reducing the social tax component for five years, and
17 suspending the solvency surcharge until 2025. This swift action led
18 to the state's average unemployment insurance tax rate in 2021
19 increasing by only 0.03 percent, instead of 0.85 percent as was
20 expected if the legislature had not acted. The legislature now
21 intends to prepare for 2022 by preemptively minimizing the

1 disproportionate impact COVID-19 economic closures have had on
2 certain businesses, while continuing to ensure a healthy unemployment
3 compensation fund that can maintain critical economic support to
4 Washington workers.

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

7 (1) The unemployment insurance relief account is created in the
8 custody of the state treasurer. Revenues to the account consist of
9 appropriations and transfers by the legislature and all other funding
10 directed for deposit into the account. Only the commissioner of the
11 employment security department or the commissioner's designee may
12 authorize expenditures from the account. Expenditures from the
13 account may be used only for reimbursing the unemployment
14 compensation fund created in RCW 50.16.010 for forgiven benefits for
15 COVID-19 impacted businesses pursuant to sections 3 and 4 of this
16 act. The account is subject to the allotment procedures under chapter
17 43.88 RCW, but an appropriation is not required for expenditures.

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

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

25 (1) By November 1, 2021, the department must determine the
26 forgiven benefits for approved category 1 employers to be reimbursed
27 by the unemployment insurance relief account instead of charged to
28 the employer's experience rating account.

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

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

36 (a) "Approved benefits" means benefits paid to employees of an
37 approved category 1 employer during the fiscal year ending June 30,
38 2021, not to exceed an amount that would reduce the employer's rate

1 class increase to no more than a two rate class increase. Approved
2 benefits must not include benefits that were not charged to the
3 employer's experience rating account or benefits otherwise relieved
4 under RCW 50.29.021.

5 (b) "Approved category 1 employer" means a contribution paying
6 employer, excluding any ineligible employer:

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

10 (ii)(A) Whose North American industry classification system code
11 for rate year 2021 is within "323," "448," "451," "453," "481,"
12 "485," "487," "512," "711," "713," "721," "722," and "812;" or

13 (B) Which is a grocery store which: (I) Had fewer than 25
14 employees in the state as reported on the employer's fourth quarter
15 report to the department for 2019 and (II) was located within five
16 miles of an international border, which was closed at any time in
17 2021 due to COVID-19.

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

20 (d) "Forgiveness ratio" is computed by dividing 50 percent of the
21 total amount of money in the unemployment insurance relief account by
22 the total approved benefits. The forgiveness ratio cannot be more
23 than one.

24 (e) "Ineligible employer" means any employer that has not paid
25 all contributions, penalties, and interest due by September 30, 2021,
26 or has not entered into a department-approved deferred payment
27 contract by September 30, 2021.

28 (f) "Total approved benefits" means the sum total of all approved
29 benefits.

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

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

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

35 (1) By November 1, 2021, the department must determine the
36 forgiven benefits for approved category 2 employers to be reimbursed
37 by the unemployment insurance relief account instead of charged to
38 the employer's experience rating account.

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

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

8 (a) "Approved benefits" means benefits paid to employees of an
9 approved category 2 employer during the fiscal year ending June 30,
10 2021, not to exceed an amount that would reduce the employer's rate
11 class increase to no more than a four rate class increase. Approved
12 benefits must not include benefits that were not charged to the
13 employer's experience rating account or benefits otherwise relieved
14 under RCW 50.29.021.

15 (b) "Approved category 2 employer" means a contribution paying
16 employer, excluding any ineligible employer:

17 (i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
18 increased by six or more rate classes from rate year 2021 to rate
19 year 2022;

20 (ii) With fewer than 40,000 employees in the state as reported on
21 the employer's fourth quarter report to the department for 2019; and

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

24 (c) "Forgiven benefits" means the approved benefits for an
25 individual employer multiplied by the forgiveness ratio.

26 (d) "Forgiveness ratio" is computed by dividing 50 percent of the
27 total amount of money in the unemployment insurance relief account by
28 the total approved benefits. The forgiveness ratio cannot be more
29 than one.

30 (e) "Ineligible employer" means any employer that has not paid
31 all contributions, penalties, and interest due by September 30, 2021,
32 or has not entered into a department-approved deferred payment
33 contract by September 30, 2021.

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

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

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

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

11 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
12 preservation of the public peace, health, or safety, or support of
13 the state government and its existing public institutions, and takes
14 effect immediately.

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