
SENATE BILL 5478

State of Washington

67th Legislature

2021 Regular Session

By Senators Keiser, Mullet, Billig, Cleveland, Conway, Das, Hunt, King, Kuderer, Lias, Lovelett, Nguyen, Randall, Rolfes, Saldaña, Stanford, Van De Wege, C. Wilson, and J. Wilson

Read first time 03/26/21. Referred to Committee on Ways & Means.

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, ESSB 5061, provided immediate relief to all
14 employers by noncharging \$1.2 billion in benefits paid during the 11
15 weeks of the initial COVID-19 closures, reducing the social tax
16 component for five years, and suspending the solvency surcharge until
17 2025. This swift action led to the state's average unemployment
18 insurance tax rate in 2021 increasing by only 0.03 percent, instead
19 of 0.85 percent as was expected if the legislature had not acted. The
20 legislature now intends to prepare for 2022 by preemptively
21 minimizing the disproportionate impact COVID-19 economic closures

1 have had on certain businesses, while continuing to ensure a healthy
2 unemployment compensation fund that can maintain critical economic
3 support to Washington workers.

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

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

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

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

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

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 tier 1 employer during the fiscal year ending June 30, 2021,
37 not to exceed an amount that would reduce the employer's rate class
38 increase to no more than a two rate class increase. Approved benefits

1 must not include benefits that were not charged to the employer's
2 experience rating account or benefits otherwise relieved under RCW
3 50.29.021.

4 (b) "Approved tier 1 employer" means a contribution paying
5 employer, excluding any ineligible employer, whose:

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

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

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

14 (d) "Forgiveness ratio" is computed by dividing 60 percent of the
15 total amount of money in the unemployment insurance relief account by
16 the total approved benefits. The forgiveness ratio cannot be more
17 than one.

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

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. 4.** A new section is added to chapter 50.29
28 RCW to read as follows:

29 (1) By November 1, 2021, the department must determine the
30 forgiven benefits for approved tier 2 employers to be reimbursed by
31 the unemployment insurance relief account instead of charged to the
32 employer's experience rating account.

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

8 (b) "Approved tier 2 employer" means a contribution paying
9 employer, excluding any ineligible employer:

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

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

15 (iii) Who does not meet the definition of approved tier 1
16 employer under section 3(3)(b) of this act.

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

19 (d) "Forgiveness ratio" is computed by dividing 40 percent of the
20 total amount of money in the unemployment insurance relief account by
21 the total approved benefits. The forgiveness ratio cannot be more
22 than one.

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

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

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

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

32 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
33 conflict with federal requirements that are a prescribed condition to
34 the allocation of federal funds to the state or the eligibility of
35 employers in this state for federal unemployment tax credits, the
36 conflicting part of this act is inoperative solely to the extent of
37 the conflict, and the finding or determination does not affect the
38 operation of the remainder of this act. Rules adopted under this act
39 must meet federal requirements that are a necessary condition to the

1 receipt of federal funds by the state or the granting of federal
2 unemployment tax credits to employers in this state.

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

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