

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5873

Chapter 61, Laws of 2022

67th Legislature
2022 Regular Session

UNEMPLOYMENT INSURANCE—PREMIUMS

EFFECTIVE DATE: March 11, 2022

Passed by the Senate February 9, 2022
Yeas 48 Nays 1

DENNY HECK

President of the Senate

Passed by the House March 1, 2022
Yeas 95 Nays 0

LURIE JINKINS

**Speaker of the House of
Representatives**

Approved March 11, 2022 10:57 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5873** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

March 11, 2022

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE SENATE BILL 5873

Passed Legislature - 2022 Regular Session

State of Washington

67th Legislature

2022 Regular Session

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

READ FIRST TIME 02/01/22.

1 AN ACT Relating to the social cost factor in unemployment
2 insurance premiums; amending RCW 50.29.025 and 50.29.070; and
3 declaring an emergency.

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

5 **Sec. 1.** RCW 50.29.025 and 2021 c 2 s 17 are each amended to read
6 as follows:

7 (1) The contribution rate for each employer subject to
8 contributions under RCW 50.24.010 shall be the sum of the array
9 calculation factor rate and the graduated social cost factor rate
10 determined under this subsection, and the solvency surcharge
11 determined under RCW 50.29.041, if any.

12 (a) The array calculation factor rate shall be determined as
13 follows:

14 (i) An array shall be prepared, listing all qualified employers
15 in ascending order of their benefit ratios. The array shall show for
16 each qualified employer: (A) Identification number; (B) benefit
17 ratio; and (C) taxable payrolls for the four consecutive calendar
18 quarters immediately preceding the computation date and reported to
19 the employment security department by the cut-off date.

20 (ii) Each employer in the array shall be assigned to one of forty
21 rate classes according to his or her benefit ratio as follows, and,

1 except as provided in RCW 50.29.026, the array calculation factor
 2 rate for each employer in the array shall be the rate specified in
 3 the rate class to which the employer has been assigned:

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
4				
5				
6				
7		0.000001	1	0.00
8	0.000001	0.001250	2	0.11
9	0.001250	0.002500	3	0.22
10	0.002500	0.003750	4	0.33
11	0.003750	0.005000	5	0.43
12	0.005000	0.006250	6	0.54
13	0.006250	0.007500	7	0.65
14	0.007500	0.008750	8	0.76
15	0.008750	0.010000	9	0.88
16	0.010000	0.011250	10	1.01
17	0.011250	0.012500	11	1.14
18	0.012500	0.013750	12	1.28
19	0.013750	0.015000	13	1.41
20	0.015000	0.016250	14	1.54
21	0.016250	0.017500	15	1.67
22	0.017500	0.018750	16	1.80
23	0.018750	0.020000	17	1.94
24	0.020000	0.021250	18	2.07
25	0.021250	0.022500	19	2.20
26	0.022500	0.023750	20	2.38
27	0.023750	0.025000	21	2.50
28	0.025000	0.026250	22	2.63
29	0.026250	0.027500	23	2.75
30	0.027500	0.028750	24	2.88
31	0.028750	0.030000	25	3.00
32	0.030000	0.031250	26	3.13
33	0.031250	0.032500	27	3.25

1	0.032500	0.033750	28	3.38
2	0.033750	0.035000	29	3.50
3	0.035000	0.036250	30	3.63
4	0.036250	0.037500	31	3.75
5	0.037500	0.040000	32	4.00
6	0.040000	0.042500	33	4.25
7	0.042500	0.045000	34	4.50
8	0.045000	0.047500	35	4.75
9	0.047500	0.050000	36	5.00
10	0.050000	0.052500	37	5.15
11	0.052500	0.055000	38	5.25
12	0.055000	0.057500	39	5.30
13	0.057500		40	5.40

14 (b) The graduated social cost factor rate shall be determined as
15 follows:

16 (i) (A) Except as provided in (b) (i) (B) and (C) of this
17 subsection, the commissioner shall calculate the flat social cost
18 factor for a rate year by dividing the total social cost by the total
19 taxable payroll. The division shall be carried to the second decimal
20 place with the remaining fraction disregarded unless it amounts to
21 five hundredths or more, in which case the second decimal place shall
22 be rounded to the next higher digit. The flat social cost factor
23 shall be expressed as a percentage.

24 (B) (I) If, on the cut-off date, the balance in the unemployment
25 compensation fund is determined by the commissioner to be an amount
26 that will provide more than ten months of unemployment benefits, the
27 commissioner shall calculate the flat social cost factor for the rate
28 year immediately following the cut-off date by reducing the total
29 social cost by the dollar amount that represents the number of months
30 for which the balance in the unemployment compensation fund on the
31 cut-off date will provide benefits above ten months and dividing the
32 result by the total taxable payroll. However, the calculation under
33 this subsection (1) (b) (i) (B) for a rate year may not result in a flat
34 social cost factor that is more than four-tenths lower than the
35 calculation under (b) (i) (A) of this subsection for that rate year.
36 For rate year 2011 and thereafter, the calculation may not result in

1 a flat social cost factor that is more than one and twenty-two one-
2 hundredths percent except for rate year 2021 the calculation may not
3 result in a flat social cost factor that is more than five-tenths
4 percent, for rate year 2022 the calculation may not result in a flat
5 social cost factor that is more than (~~seventy-five one-hundredths~~)
6 five-tenths percent, for rate year 2023 the calculation may not
7 result in a flat social cost factor that is more than (~~eight-~~
8 ~~tenths~~) seven-tenths percent, for rate year 2024 the calculation may
9 not result in a flat social cost factor that is more than eighty-five
10 one-hundredths percent, and for rate year 2025 the calculation may
11 not result in a flat social cost factor that is more than nine-tenths
12 percent.

13 (II) If, on the cut-off date, the balance in the unemployment
14 compensation fund is determined by the commissioner to be an amount
15 that will provide ten months of unemployment benefits or less, the
16 flat social cost factor for the rate year immediately following the
17 cut-off date may not increase by more than fifty percent over the
18 previous rate year or may not exceed one and twenty-two one-
19 hundredths percent, whichever is greater.

20 (III) For the purposes of this subsection (1)(b), the
21 commissioner shall determine the number of months of unemployment
22 benefits in the unemployment compensation fund using the benefit cost
23 rate for the average of the three highest calendar benefit cost rates
24 in the twenty consecutive completed calendar years immediately
25 preceding the cut-off date or a period of consecutive calendar years
26 immediately preceding the cut-off date that includes three
27 recessions, if longer.

28 (C) The minimum flat social cost factor calculated under this
29 subsection (1)(b) shall be six-tenths of one percent, except that if
30 the balance in the unemployment compensation fund is determined by
31 the commissioner to be an amount that will provide:

32 (I) At least ten months but less than eleven months of
33 unemployment benefits, the minimum shall be five-tenths of one
34 percent; or

35 (II) At least eleven months but less than twelve months of
36 unemployment benefits, the minimum shall be forty-five hundredths of
37 one percent; or

38 (III) At least twelve months but less than thirteen months of
39 unemployment benefits, the minimum shall be four-tenths of one
40 percent; or

1 (IV) At least thirteen months but less than fifteen months of
2 unemployment benefits, the minimum shall be thirty-five hundredths of
3 one percent; or

4 (V) At least fifteen months but less than seventeen months of
5 unemployment benefits, the minimum shall be twenty-five hundredths of
6 one percent; or

7 (VI) At least seventeen months but less than eighteen months of
8 unemployment benefits, the minimum shall be fifteen hundredths of one
9 percent; or

10 (VII) At least eighteen months of unemployment benefits, the
11 minimum shall be fifteen hundredths of one percent through rate year
12 2011 and shall be zero thereafter.

13 (ii) The graduated social cost factor rate for each employer in
14 the array is the flat social cost factor multiplied by the percentage
15 specified as follows for the rate class to which the employer has
16 been assigned in (a)(ii) of this subsection, except that the sum of
17 an employer's array calculation factor rate and the graduated social
18 cost factor rate may not exceed six percent or, for employers whose
19 North American industry classification system code is within "111,"
20 "112," "1141," "115," "3114," "3117," "42448," or "49312," may not
21 exceed five and four-tenths percent:

22 (A) Rate class 1 - 40 percent;

23 (B) Rate class 2 - 44 percent;

24 (C) Rate class 3 - 48 percent;

25 (D) Rate class 4 - 52 percent;

26 (E) Rate class 5 - 56 percent;

27 (F) Rate class 6 - 60 percent;

28 (G) Rate class 7 - 64 percent;

29 (H) Rate class 8 - 68 percent;

30 (I) Rate class 9 - 72 percent;

31 (J) Rate class 10 - 76 percent;

32 (K) Rate class 11 - 80 percent;

33 (L) Rate class 12 - 84 percent;

34 (M) Rate class 13 - 88 percent;

35 (N) Rate class 14 - 92 percent;

36 (O) Rate class 15 - 96 percent;

37 (P) Rate class 16 - 100 percent;

38 (Q) Rate class 17 - 104 percent;

39 (R) Rate class 18 - 108 percent;

40 (S) Rate class 19 - 112 percent;

1 (T) Rate class 20 - 116 percent; and

2 (U) Rate classes 21 through 40 - 120 percent.

3 (iii) For rate year 2023, for any employer with 10 or fewer
4 employees as reported on the employer's fourth quarter report to the
5 department for 2021 and whose rate class is greater than rate class
6 7, the employer's rate class, only for purposes of the rate classes
7 in (b) (ii) (A) through (U) of this subsection (1), is rate class 7.

8 (iv) For the purposes of this section:

9 (A) "Total social cost" means the amount calculated by
10 subtracting the array calculation factor contributions paid by all
11 employers with respect to the four consecutive calendar quarters
12 immediately preceding the computation date and paid to the employment
13 security department by the cut-off date from the total unemployment
14 benefits paid to claimants in the same four consecutive calendar
15 quarters.

16 (B) "Total taxable payroll" means the total amount of wages
17 subject to tax, as determined under RCW 50.24.010, for all employers
18 in the four consecutive calendar quarters immediately preceding the
19 computation date and reported to the employment security department
20 by the cut-off date.

21 (c) For employers who do not meet the definition of "qualified
22 employer" by reason of failure to pay contributions when due:

23 (i) (A) For an employer who does not enter into an approved
24 agency-deferred payment contract as described in (c) (i) (B) or (C) of
25 this subsection, the array calculation factor rate shall be the rate
26 it would have been if the employer had not been delinquent in payment
27 plus an additional one percent or, if the employer is delinquent in
28 payment for a second or more consecutive year, an additional two
29 percent;

30 (B) For an employer who enters an approved agency-deferred
31 payment contract by September 30th of the previous rate year, the
32 array calculation factor rate shall be the rate it would have been if
33 the employer had not been delinquent in payment;

34 (C) For an employer who enters an approved agency-deferred
35 payment contract after September 30th of the previous rate year, but
36 within thirty days of the date the department sent its first tax rate
37 notice, the array calculation factor rate shall be the rate it would
38 have been had the employer not been delinquent in payment plus an
39 additional one-half of one percent or, if the employer is delinquent

1 in payment for a second or more consecutive year, an additional one
2 and one-half percent;

3 (D) For an employer who enters an approved agency-deferred
4 payment contract as described in (c)(i)(B) or (C) of this subsection,
5 but who fails to make any one of the succeeding deferred payments or
6 fails to submit any succeeding tax report and payment in a timely
7 manner, the array calculation factor rate shall immediately revert to
8 the applicable array calculation factor rate under (c)(i)(A) of this
9 subsection; and

10 (ii) The social cost factor rate shall be the social cost factor
11 rate assigned to rate class 40 under (b)(ii)(~~(A)~~) of this
12 subsection.

13 (d) For all other employers not qualified to be in the array:

14 (i) The array calculation factor rate shall be a rate equal to
15 the average industry array calculation factor rate as determined by
16 the commissioner, multiplied by the history factor, but not less than
17 one percent or more than the array calculation factor rate in rate
18 class 40;

19 (ii) The social cost factor rate shall be a rate equal to the
20 average industry social cost factor rate as determined by the
21 commissioner, multiplied by the history factor, but not more than the
22 social cost factor rate assigned to rate class 40 under (b)(ii) of
23 this subsection; and

24 (iii) The history factor shall be based on the total amounts of
25 benefits charged and contributions paid in the three fiscal years
26 ending prior to the computation date by employers not qualified to be
27 in the array, other than employers in (c) of this subsection, who
28 were first subject to contributions in the calendar year ending three
29 years prior to the computation date. The commissioner shall calculate
30 the history ratio by dividing the total amount of benefits charged by
31 the total amount of contributions paid in this three-year period by
32 these employers. The division shall be carried to the second decimal
33 place with the remaining fraction disregarded unless it amounts to
34 five one-hundredths or more, in which case the second decimal place
35 shall be rounded to the next higher digit. The commissioner shall
36 determine the history factor according to the history ratio as
37 follows:

	History	History
	Ratio	Factor
		(percent)
	At least	Less than
5	(A)	.95 90
6	(B)	.95 1.05 100
7	(C)	1.05 115

8 (2) Assignment of employers by the commissioner to industrial
9 classification, for purposes of this section, shall be in accordance
10 with established classification practices found in the North American
11 industry classification system code.

12 **Sec. 2.** RCW 50.29.070 and 2003 2nd sp.s. c 4 s 19 are each
13 amended to read as follows:

14 (1) Within a reasonable time after the computation date each
15 employer shall be notified of the employer's rate of contribution as
16 determined for the succeeding rate year and factors used in the
17 calculation. Beginning with rate year 2005, the notice must include
18 the amount of the contribution rate that is attributable to each
19 component of the rate under RCW 50.29.025(~~(+2)~~) (1).

20 (2) Any employer dissatisfied with the benefit charges made to
21 the employer's account for the twelve-month period immediately
22 preceding the computation date or with his or her determined rate may
23 file a request for review and redetermination with the commissioner
24 within thirty days of the mailing of the notice to the employer,
25 showing the reason for such request. Should such request for review
26 and redetermination be denied, the employer may, within thirty days
27 of the mailing of such notice of denial, file with the appeal
28 tribunal a petition for hearing which shall be heard in the same
29 manner as a petition for denial of refund. The appellate procedure
30 prescribed by this title for further appeal shall apply to all
31 denials of review and redetermination under this section.

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

Passed by the House March 1, 2022.
Approved by the Governor March 11, 2022.
Filed in Office of Secretary of State March 11, 2022.

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