Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Labor & Workplace Standards Committee

HB 1773

Brief Description: Creating a wage replacement program for certain Washington workers excluded from unemployment insurance.

Sponsors: Representatives Cortes, Ortiz-Self, Mena, Taylor, Farivar, Berry, Walen, Ormsby, Thai, Stonier, Ryu, Ramel, Macri, Berg, Gregerson, Zahn, Simmons, Scott, Parshley, Salahuddin, Fosse, Duerr, Doglio, Pollet and Reed.

Brief Summary of Bill

- Establishes a Wage Replacement Program (Program) for certain unemployed workers who are ineligible for benefits through the unemployment insurance system.
- Establishes a wage replacement surcharge on payroll taxes paid by employers to fund the Program, reduces a contribution paid to the administrative contingency fund in the unemployment insurance system, and caps the combined total of both the surcharge and contribution at 0.08 percent.

Hearing Date: 2/4/25

Staff: Kelly Leonard (786-7147).

Background:

Unemployment Insurance Benefits.

The unemployment insurance (UI) system, administered by the Employment Security

Department (ESD), is designed to provide partial wage replacement for workers who are unemployed. Its primary purpose is to alleviate the hardships that result from the loss of wage income during unemployment. Regular UI benefits are based on a claimant's earnings in his or her base year, adjusted based on a statutory formula. The weekly benefit amount varies from claimant-to-claimant, but can be no greater than $1,079.

A claimant is eligible to receive UI benefits if the claimant: (1) worked at least 680 hours in the base year; (2) was separated from employment through no fault of his or her own or quit work for good cause; and (3) is available to work and is actively searching for work. In addition, UI benefits may not be paid unless the claimant was lawfully admitted for permanent residence, was lawfully present for purposes of performing such services, or otherwise was permanently residing in the United States under certain conditions. Federal regulations require a claimant to declare under penalty of perjury whether the claimant is a citizen or national of the United States. Otherwise, the claimant must present appropriate registration documentation to verify that he or she is authorized to work in the United States, which is then confirmed by the ESD.

Funding for Unemployment Insurance Benefits.

Funding for the UI system and UI benefits are sourced from federal and state payroll taxes. The federal tax is equal to 6 percent on the first $7,000 paid to each employee as wages during the year, which is passed down to states to administer UI benefits systems. For state taxes, most employers pay contributions to finance UI benefits and costs, which are calculated based on a percentage of the total taxable wages paid to employees. An employer's tax rate is experience-rated so that the rate is determined, in part, by the UI benefits paid to its employees. Employers also pay a social cost factor rate, which may not exceed 1.22 percent. A solvency surcharge applies if there are fewer than seven months of UI benefits in the UI trust fund, which may not exceed 0.2 percent. The solvency surcharge was suspended from 2021 through 2025. These taxes are deposited into the UI trust fund, which can only be used to pay UI benefits. An additional tax is assessed for most employers at a rate of 0.02 percent for financing special programs and 0.01 percent for financing certain administrative costs, both of which are deposited into the administrative contingency fund.

Federal law places certain restrictions on the state UI system. To enforce these restrictions, federal funding provided to the state for the administration of the UI system is conditioned on compliance with federal law. Individual employers also receive a credit on their federal unemployment taxes so long as the state complies with applicable federal law.

Summary of Bill:

Wage Replacement Program.

Third Party Administrator. By July 1, 2026, the Employment Security Department (ESD) must select a third-party administrator to administer the Wage Replacement Program (Program). The third-party administrator must have certain specified experience and qualifications. Within one year of being awarded a contact, the third party administrator must:

- contract with community-based organizations to provide outreach to unemployed individuals who may be eligible for benefits in the Program;
- screen each applicant for benefits to determine if the applicant is an eligible individual;
- pay benefits to eligible individuals; and
- establish an appeal process for benefit denials, suspensions, or terminations.

The ESD must appoint an advisory committee for the purposes of reviewing issues and topics of interest related to the administration of the Program. The advisory committee must provide comment on related rule making, policies, implementation, utilization of benefits, and study relevant issues.

Claims and Benefits Eligibility. Beginning January 1, 2027, a claimant is eligible to receive benefits under the Program with respect to any week of unemployment in their benefit year if the claimant provides the ESD with sufficient evidence that the claimant in ineligible for unemployment insurance benefits. The claimant must then file an application for benefits to the third party administrator for the Program, including information or documentation verifying that the claimant:

- is a state resident and has sufficient photographic identification confirming his or her identity;
- worked 680 hours in employment in the base year or earned wages during the base year equal to 680 times the minimum wage in effect during the first quarter of the base year;
- is unemployed through no fault of his or her own; and
- has been unemployed for a waiting period of one week.

To be considered a state resident, the claimant must have taken actions indicating that he or she intends to live in the state on more than a temporary or transient basis while receiving benefits. The claimant is a state resident if the claimant meets certain criteria and/or provides certain specified documentation, including, for example, having a utility bill showing the claimant's full name and Washington address, or having a state identification card showing the claimant's full name and Washington address.

An eligible claimant may qualify for weekly benefits by self-attesting that he or she is actively seeking work in any trade, occupation, profession, or business for which the claimant is reasonably fitted, and he or she reports any wages or remuneration that he or she receives. A claimant is disqualified for benefits under certain circumstances, including, for example, if the claimant left their work voluntarily without good cause or was discharged for misconduct, or if the claimant knowingly made a false statement or representation to obtain benefits.

Amount of Benefits. An eligible and qualified claimant must receive a weekly benefit amount calculated based on the state formula for unemployment insurance (UI) benefits. The maximum benefits allowable under the Program are the same as those for UI benefits.

Denials. If the third party administrator denies a claimant benefits, it must promptly issue a written notice with the reasons.

Funding for the Wage Replacement Program.

The costs for the Program and benefits are paid from the Washington Wage Replacement Account (Account), which is established in the bill. Benefits are payable only to the extent that monies are available in the Account.

A wage replacement surcharge must be imposed on employers required to pay UI contributions. The surcharge rate for 2026 and 2027 is 0.01 percent. The surcharge rate in subsequent years will be determined by the ESD Commissioner at the lowest rate to provide revenue during the applicable rate year that will fund administration and benefits of the Program. The rate for financing special programs through the administrative contingency fund is reduced from 0.02 percent to 0.01 percent. The combined rate of the wage replacement surcharge and the rate for financing special programs may not exceed 0.08 percent.

Expenditures from the Account may be used only for providing benefits to eligible and qualified claimants, contracting with community-based organizations to notify individuals who may be eligible for benefits, administration of the advisory committee, ESD's administrative costs, and third-party administrators.

Restrictions on Collecting and Disclosing Information.

In administering the Program, the ESD and third party administrator are prohibited from taking specified actions, including:

- soliciting from the claimant, orally or in written form, a claimant's nationality, race, ethnicity, place of birth, citizenship, or immigration status;
- indicating in its records which documents the claimant used to prove their age or identity;
- compelling a claimant to admit in writing whether they have proof of lawful presence in the United States or to explain why they are ineligible for a social security number;
- contacting a claimant's current, former, or prospective employers including, but not limited to, for the purposes of verifying employment status, except for the purposes of verifying wages; and
- attempting to ascertain a claimant's immigration or citizenship status, except to determine whether a claimant is excluded from UI benefits and potentially eligible for benefits under the Program.

The third party administrator must destroy all records containing information that were provided by a claimant or collected by the ESD to verify eligibility for the Program within 15 days of a claimant's written statement that they are no longer using the Program. Any information or records concerning a claimant or employing unit obtained by the ESD or third party administrator for the purposes of administering the Program are confidential and not subject to disclosure under the Public Records Act, unless an exception applies.

Appropriation: None.

Fiscal Note: Requested on February 3, 2025.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.