
SENATE BILL 5796

State of Washington

69th Legislature

2025 Regular Session

By Senators Saldaña, Robinson, Alvarado, Bateman, Frame, Hasegawa, Lovelett, Nobles, Pedersen, Ramos, and Trudeau

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1 AN ACT Relating to enacting an excise tax on large employers on
2 the amount of payroll expenses above the social security wage
3 threshold to fund public schools, health care, social services, and
4 other programs and services to benefit Washingtonians; adding a new
5 Title to the Revised Code of Washington to be codified as Title 50C
6 RCW; creating a new section; and prescribing penalties.

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

8 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that,
9 through the state's general fund, the state funds public schools,
10 health care, and social services that help Washingtonians to succeed
11 and thrive.

12 (2) These general fund dollars help the state meet its paramount
13 duty to amply provide every child in the state with an education,
14 including children who qualify for special education services,
15 creating the opportunity for each child to succeed in school and
16 achieve success in life.

17 (3) The general fund supports health care and other programs that
18 protect the safety and well-being of the public including behavioral
19 health services for those living with mental illness or substance use
20 disorder, as well as supervision of individuals who have committed
21 crimes.

1 (4) The general fund also funds social services that provide
2 critical, basic needs assistance for our state's most vulnerable
3 residents including support for those with developmental disabilities
4 and long-term care for the elderly.

5 (5) Therefore, the intent of this act is to maintain and preserve
6 essential services for Washingtonians, particularly within public
7 schools, health care, and social services, by depositing revenues
8 from this act to the general fund.

9 (6) Furthermore, the legislature finds that more progress is
10 needed for the state to have a fair and balanced tax system that can
11 provide sustainable, ample funding for public schools and other
12 essential public programs and services. Washington's tax system
13 remains the second most regressive in the nation as it asks those
14 with the least to pay the most as a percentage of their income. Low-
15 income Washingtonians pay at least three times more in state and
16 local taxes as a percentage of their income than the state's highest
17 income households. The legislature further acknowledges that the
18 state's reliance on the business and occupation tax as its primary
19 tax on business entities in Washington is challenging for small and
20 low-margin businesses, as it applies to the gross receipts of a
21 business without consideration of profitability. In response, the
22 legislature intends to limit this act to employer payroll expenses
23 above the social security wage threshold and exempt businesses with
24 less than \$7,000,000 in annual payroll expenses. As a result, the
25 payroll expense tax is estimated to impact just 17 percent of
26 businesses in this state, taking a significant step toward reducing
27 the disproportionate reliance on small and low-margin businesses to
28 fund public schools, health care, social services, and other programs
29 and services to benefit Washingtonians.

30 (7) Thus, to help meet the state's paramount duty of amply
31 providing every child in the state with an education and supporting
32 the health and well-being of Washingtonians, the legislature intends
33 to impose a tax on large employers on the amount of payroll expenses
34 not otherwise subject to social security withholdings.

35 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
36 section apply throughout this chapter unless the context clearly
37 requires otherwise.

38 (1) "Commissioner" means the commissioner of the employment
39 security department.

1 (2) "Department" means the employment security department.

2 (3) "Employee" has the same meaning as in RCW 50A.05.010.

3 (4) "Employer" has the same meaning as in RCW 50A.05.010.

4 (5) "Employment" means personal service, of whatever nature, as
5 known to the common law or any other legal relationship performed for
6 wages or under any contract calling for the performance of personal
7 services, written or oral, express or implied. "Employment" includes
8 an individual's entire service performed within or without or both
9 within and without this state, if:

10 (a) The service is localized in this state; or

11 (b) The service is not localized in any state, but some of the
12 service is performed in this state; and

13 (i) The base of operations of the employee is in this state, or
14 if there is no base of operations, then the place from which such
15 service is directed or controlled is in this state; or

16 (ii) The base of operations or place from which such service is
17 directed or controlled is not in any state in which some part of the
18 service is performed, but the individual's residence is in this
19 state.

20 (6) "Remuneration" has the same meaning as provided in RCW
21 50A.05.010.

22 (7) "Service is localized in this state" has the same meaning as
23 in RCW 50A.05.010.

24 (8) "Wages" means the remuneration paid by an employer to an
25 employee.

26 NEW SECTION. **Sec. 3.** PAYROLL EXPENSE TAX. (1) Beginning July 1,
27 2026, a payroll expense tax is levied on employers engaged in
28 business within the state of Washington as provided in this section.
29 The payroll expense tax is the total amount of calendar year wages
30 for each employee in employment of the employer that exceeds the
31 maximum wages subject to taxation for social security, as determined
32 by the social security administration, multiplied by a rate of five
33 percent.

34 (2)(a) Each employer must remit the tax imposed under this
35 section to the department in a manner specified by the department.

36 (b) In the payment of any taxes, a fractional part of a cent is
37 disregarded unless it amounts to one-half cent or more, in which case
38 it is increased to one cent.

1 (3) The commissioner must annually set the employee wage amount
2 excluded from tax under this section in an amount equal to the
3 maximum wages subject to taxation for social security as determined
4 by the social security administration.

5 (4) The tax under this section is imposed on the employer. An
6 employer may not make any deductions from employee wages to pay for
7 this tax.

8 NEW SECTION. **Sec. 4.** EXEMPTION. The payroll expense tax under
9 section 3 of this act does not apply to any employer with total
10 employee wages equal to or less than \$7,000,000 for the prior
11 calendar year.

12 NEW SECTION. **Sec. 5.** CREDIT. (1) In computing the tax due under
13 this chapter, a credit is allowed against the tax imposed in this
14 chapter and in accordance with this section, for any eligible city
15 payroll expense tax paid by the employer.

16 (2) (a) The amount of credit is equal to the total amount of
17 eligible city payroll expense tax remitted to the city during the
18 immediately prior state tax reporting period. The amount of the
19 credit may not exceed the tax that would be owed for the city payroll
20 expense tax in effect on January 1, 2024.

21 (b) No employer may claim a credit under this section for
22 reporting periods for which no tax was due to the city.

23 (3) The credit under this section may not exceed the tax
24 otherwise due under this chapter for the tax reporting period. No
25 refunds may be granted for credits under this section.

26 (4) The department may contract, under chapter 39.34 RCW, with
27 any city imposing an eligible city payroll expense tax to facilitate
28 the administration of the credit authorized in this section.

29 (5) For the purpose of this section, "eligible city payroll
30 expense tax" means a tax that is measured by annual employee
31 compensation and imposed by a city, as of January 1, 2024.

32 NEW SECTION. **Sec. 6.** EMPLOYER REQUIREMENTS. (1) In the form and
33 at the times specified in this chapter and by the commissioner, an
34 employer shall make reports, furnish information, and collect and
35 remit taxes as required by this chapter to the department. If the
36 employer is a temporary help company that provides employees on a

1 temporary basis to its customers, the temporary help company is the
2 employer for purposes of this section.

3 (2) (a) An employer must keep at the employer's place of business
4 a record of employment, for a period of six years, from which the
5 information needed by the department for purposes of this chapter may
6 be obtained. This record must at all times be open to the inspection
7 of the commissioner.

8 (b) Information obtained under this chapter from employer records
9 is confidential and not open to public inspection, other than to
10 public employees in the performance of their official duties.
11 However, an interested party must be supplied with information from
12 employer records to the extent necessary for the proper presentation
13 of the case in question. An employer may authorize inspection of the
14 employer's records by written consent.

15 (3) Before issuing a warning letter for failure to comply with
16 requirements relating to the collection of payroll expense taxes is
17 as provided in this chapter, the department shall enforce the
18 collection of taxes through conference and conciliation. This
19 requirement applies to:

20 (a) An employer that fails under this chapter to make the
21 required reports, or fails to remit the full amount of taxes when
22 due;

23 (b) An employer that willfully makes a false statement or
24 misrepresentation regarding a material fact, or willfully fails to
25 report a material fact, to avoid making the required reports or
26 remitting the full amount of the tax when due under this chapter;

27 (c) A successor in the manner specified in section 9 of this act;
28 and

29 (d) An officer, member, or owner having either control or
30 supervision of payment or reporting of excess compensation taxes, or
31 both, or who is charged with the responsibility for the filing of
32 returns, in the manner specified in section 7 of this act.

33 (4) Appeals are governed by section 22 of this act.

34 NEW SECTION. **Sec. 7.** EMPLOYER PENALTIES. (1) An employer who
35 willfully fails to make the required reports is subject to penalties
36 as follows: (a) For the second occurrence, the penalty is \$75; (b)
37 for the third occurrence, the penalty is \$150; and (c) for the fourth
38 occurrence and for each occurrence thereafter, the penalty is \$250.

1 (2) An employer who willfully fails to remit the full amount of
2 taxes when due is liable, in addition to the full amount of taxes due
3 and amounts assessed as interest under section 8 of this act, to a
4 penalty equal to the tax and interest.

5 (3) Any moneys under this section must be deposited into the
6 general fund of the state.

7 (4) For the purposes of this section, "willful" means a knowing
8 and intentional action that is neither accidental nor the result of a
9 bona fide dispute.

10 (5)(a) Beginning January 1, 2027, the department shall enforce
11 the collection of penalties and interest pursuant to this section and
12 section 8 of this act for any penalties and interest accruing after
13 the effective date of this section.

14 (b) The department shall enforce the collection of penalties
15 through conference and conciliation.

16 (6) These penalties may be appealed as provided in this chapter.

17 NEW SECTION. **Sec. 8.** DELINQUENCY—ACCRUAL OF INTEREST. If taxes
18 are not paid on the date on which they are due and payable as
19 prescribed by the commissioner, the whole or part thereof remaining
20 unpaid must bear interest at the rate of one percent per month or
21 fraction thereof from and after such date until payment plus accrued
22 interest is received by the commissioner. The date as of which
23 payment of taxes, if mailed, is deemed to have been received may be
24 determined by such rules as the commissioner may prescribe. Interest
25 collected pursuant to this section must be paid into the general fund
26 of the state. Interest may not accrue on taxes from any estate in the
27 hands of a receiver, executor, administrator, trustee in bankruptcy,
28 common law assignee, or other liquidating officer subsequent to the
29 date when such receiver, executor, administrator, trustee in
30 bankruptcy, common law assignee, or other liquidating officer
31 qualifies as such, but taxes accruing with respect to employment of
32 persons by any receiver, executor, administrator, trustee in
33 bankruptcy, common law assignee, or other liquidating officer become
34 due and draw interest in the same manner as taxes due from other
35 employers. Where adequate information has been furnished to the
36 department and the department has failed to act or has advised the
37 employer of no liability or inability to decide the issue, interest
38 may be waived.

1 NEW SECTION. **Sec. 9.** TERMINATION OR DISPOSAL OF BUSINESS—TAX
2 PAYMENT—SUCCESSOR LIABILITY. Whenever any employer quits business, or
3 sells out, exchanges, or otherwise disposes of the employer's
4 business or stock of goods, any taxes payable under this chapter
5 shall become immediately due and payable, and the employer shall,
6 within 10 days, make a return and pay the taxes due; and any person
7 who becomes a successor to such business shall become liable for the
8 full amount of taxes and withhold from the purchase price a sum
9 sufficient to pay any taxes due from the employer until such time as
10 the employer produces a receipt from the employment security
11 department showing payment in full of any taxes due or a certificate
12 that no tax is due and, if such taxes are not paid by the employer
13 within 10 days from the date of such sale, exchange, or disposal, the
14 successor shall become liable for the payment of the full amount of
15 taxes, and the payment thereof by such successor shall, to the extent
16 thereof, be deemed a payment upon the purchase price, and if such
17 payment is greater in amount than the purchase price the amount of
18 the difference shall become a debt due such successor from the
19 employer. A successor may not be liable for any tax due from the
20 person from whom that person has acquired a business or stock of
21 goods if that person gives written notice to the employment security
22 department of such acquisition and no assessment is issued by the
23 department within 180 days of receipt of such notice against the
24 former operator of the business and a copy thereof mailed to such
25 successor.

26 NEW SECTION. **Sec. 10.** DELINQUENCY—ORDER AND NOTICE OF
27 ASSESSMENT. At any time after the commissioner shall find that any
28 tax, interest, or penalties have become delinquent, the commissioner
29 may issue an order and notice of assessment specifying the amount
30 due, which order and notice of assessment shall be served upon the
31 delinquent employer in the manner prescribed for the service of a
32 summons in a civil action, or using a method by which the mailing can
33 be tracked or the delivery can be confirmed. Failure of the employer
34 to receive such notice or order whether served or mailed shall not
35 release the employer from any tax, or any interest or penalties
36 thereon.

1 NEW SECTION. **Sec. 11.** JEOPARDIZED COLLECTION—IMMEDIATE
2 ASSESSMENT. If the commissioner has reason to believe that an
3 employer is insolvent or if any reason exists why the collection of
4 any taxes accrued will be jeopardized by delaying collection, the
5 commissioner may make an immediate assessment thereof and may proceed
6 to enforce collection immediately, but interest and penalties shall
7 not begin to accrue upon any taxes until the date when such taxes
8 would normally have become delinquent.

9 NEW SECTION. **Sec. 12.** COLLECTION BY DISTRAINT, SEIZURE, AND
10 SALE. If the amount of tax, interest, or penalties assessed by the
11 commissioner by order and notice of assessment provided in this
12 chapter is not paid within 10 days after the service or mailing of
13 the order and notice of assessment, the commissioner or the
14 commissioner's duly authorized representative may collect the amount
15 stated in said assessment by the distraint, seizure, and sale of the
16 property, goods, chattels, and effects of said delinquent employer.
17 There shall be exempt from distraint and sale under this section such
18 goods and property as are exempt from execution under the laws of
19 this state.

20 NEW SECTION. **Sec. 13.** COLLECTION BY DISTRAINT, SEIZURE, AND
21 SALE—PROCEDURE. The commissioner, upon making a distraint, must seize
22 the property and must make an inventory of the property distrained, a
23 copy of which must be mailed to the owner of such property or
24 personally delivered to the owner, and must specify the time and
25 place when such property must be sold. A notice specifying the
26 property to be sold and the time and place of sale must be posted in
27 at least two public places in the county wherein the seizure has been
28 made. The time of sale may be not less than 10 nor more than 20 days
29 from the date of posting of such notices. The sale may be adjourned
30 from time to time at the discretion of the commissioner, but not for
31 a time to exceed in all 60 days. The sale must be conducted by the
32 commissioner or the commissioner's authorized representative who
33 proceeds to sell such property by parcel or by lot at a public
34 auction, and who may set a minimum price to include the expenses of
35 making a levy and of advertising the sale, and if the amount bid for
36 such property at the sale is not equal to the minimum price so fixed,
37 the commissioner or the commissioner's representative may declare
38 such property to be purchased by the department for such minimum

1 price. In such event the delinquent account must be credited with the
2 amount for which the property has been sold. Property acquired by the
3 department as prescribed in this section may be sold by the
4 commissioner or the commissioner's representative at public or
5 private sale, and the amount realized must be placed in the general
6 fund of the state. In all cases of sale, as provided in this section,
7 the commissioner must issue a bill of sale or a deed to the purchaser
8 and such bill of sale or deed is prima facie evidence of the right of
9 the commissioner to make such sale and conclusive evidence of the
10 regularity of the commissioner's proceeding in making the sale, and
11 must transfer to the purchaser all right, title, and interest of the
12 delinquent employer in said property. The proceeds of any such sale,
13 except in those cases wherein the property has been acquired by the
14 department, must be first applied by the commissioner in satisfaction
15 of the delinquent account, and out of any sum received in excess of
16 the amount of delinquent tax, interest, and penalties the
17 administration fund must be reimbursed for the costs of distraint and
18 sale. Any excess that thereafter remains in the hands of the
19 commissioner must be refunded to the delinquent employer. Sums so
20 refundable to a delinquent employer may be subject to seizure or
21 distraint in the hands of the commissioner by any other taxing
22 authority of the state or its political subdivisions.

23 NEW SECTION. **Sec. 14.** NOTICE AND ORDER TO WITHHOLD AND DELIVER.
24 The commissioner may issue to any person, firm, corporation,
25 political subdivision, or department of the state, a notice and order
26 to withhold and deliver property of any kind whatsoever when the
27 commissioner has reason to believe that there is in the possession of
28 such person, firm, corporation, political subdivision, or department,
29 property which is due, owing, or belonging to any person, firm, or
30 corporation upon whom the department has served a notice and order of
31 assessment for tax, interest, or penalties. The effect of a notice to
32 withhold and deliver shall be continuous from the date such notice
33 and order to withhold and deliver is first made until the liability
34 is satisfied or becomes unenforceable because of a lapse of time. The
35 notice and order to withhold and deliver shall be served by the
36 sheriff or the sheriff's deputy of the county wherein the service is
37 made, using a method by which the mailing can be tracked or the
38 delivery can be confirmed, or by any duly authorized representative
39 of the commissioner. Any person, firm, corporation, political

1 subdivision, or department upon whom service has been made must
2 answer the notice within 20 days exclusive of the day of service,
3 under oath and in writing, and shall make true answers to the matters
4 inquired of in the notice. In the event there is in the possession of
5 any such person, firm, corporation, political subdivision, or
6 department, any property which may be subject to the claim of the
7 employment security department of the state, such property shall be
8 delivered forthwith to the commissioner or the commissioner's duly
9 authorized representative upon demand to be held in trust by the
10 commissioner for application on the indebtedness involved or for
11 return, without interest, in accordance with final determination of
12 liability or nonliability, or in the alternative, there shall be
13 furnished a good and sufficient bond satisfactory to the commissioner
14 conditioned upon final determination of liability. Should any person,
15 firm, or corporation fail to make answer to an order to withhold and
16 deliver within the time prescribed herein, it shall be lawful for the
17 court, after the time to answer such order has expired, to render
18 judgment by default against such person, firm, or corporation for the
19 full amount claimed by the commissioner in the notice to withhold and
20 deliver, together with costs.

21 NEW SECTION. **Sec. 15.** WARRANT FOR ASSESSMENT. Whenever any
22 order and notice of assessment or jeopardy assessment has become
23 final in accordance with the provisions of this chapter the
24 commissioner may file with the clerk of any county within the state a
25 warrant in the amount of the notice of assessment plus interest,
26 penalties, and a filing fee under RCW 36.18.012(10). The clerk of the
27 county wherein the warrant is filed shall immediately designate a
28 superior court cause number for such warrant, and the clerk shall
29 cause to be entered in the judgment docket under the superior court
30 cause number assigned to the warrant, the name of the employer
31 mentioned in the warrant, the amount of the tax, interest, penalties,
32 and filing fee, and the date when such warrant was filed. The
33 aggregate amount of such warrant as docketed shall become a lien upon
34 the title to, and interest in all real and personal property of the
35 employer against whom the warrant is issued, the same as a judgment
36 in a civil case duly docketed in the office of such clerk. Such
37 warrant so docketed shall be sufficient to support the issuance of
38 writs of execution and writs of garnishment in favor of the state in
39 the manner provided by law in the case of civil judgment, wholly or

1 partially unsatisfied. The clerk of the court shall be entitled to a
2 filing fee under RCW 36.18.012(10), which shall be added to the
3 amount of the warrant, and charged by the commissioner to the
4 employer. A copy of the warrant shall be mailed to the employer using
5 a method by which the mailing can be tracked or the delivery can be
6 confirmed within five days of filing with the clerk.

7 NEW SECTION. **Sec. 16.** LIENS. The claim of the employment
8 security department for any tax, interest, or penalties not paid when
9 due, shall be a lien prior to all other liens or claims and on a
10 parity with prior tax liens against all property and rights to
11 property, whether real or personal, belonging to the employer. In
12 order to avail itself of the lien hereby created, the department
13 shall file with any county auditor where property of the employer is
14 located a statement and claim of lien specifying the amount of
15 delinquent taxes, interest, and penalties claimed by the department.
16 From the time of filing for record, the amount required to be paid
17 shall constitute a lien upon all property and rights to property,
18 whether real or personal, in the county, owned by the employer or
19 acquired by him or her. The lien shall not be valid against any
20 purchaser, holder of a security interest, mechanic's lien, or
21 judgment lien creditor until notice thereof has been filed with the
22 county auditor. This lien shall be separate and apart from, and in
23 addition to, any other lien or claim created by, or provided for in,
24 this chapter. When any such notice of lien has been so filed, the
25 commissioner may release the same by filing a certificate of release
26 when it shall appear that the amount of delinquent tax, interest, and
27 penalties have been paid, or when such assurance of payment shall be
28 made as the commissioner may deem to be adequate. Fees for filing and
29 releasing the lien provided herein may be charged to the employer and
30 may be collected from the employer utilizing the remedies provided in
31 this chapter for the collection of taxes.

32 NEW SECTION. **Sec. 17.** LIENS—INSOLVENCY, DISSOLUTION, OR
33 DISTRIBUTION OF ASSETS. In the event of any distribution of an
34 employer's assets pursuant to an order of any court, including any
35 receivership, probate, legal dissolution, or similar proceeding, or
36 in case of any assignment for the benefit of creditors, composition,
37 or similar proceeding, tax, interest, or penalties then or thereafter
38 due shall be a lien upon all the assets of such employer. Said lien

1 is prior to all other liens or claims except prior tax liens, other
2 liens provided by this chapter, and claims for remuneration for
3 services of not more than \$250 to each claimant earned within six
4 months of the commencement of the proceeding. The mere existence of a
5 condition of insolvency or the institution of any judicial proceeding
6 for legal dissolution or of any proceeding for distribution of assets
7 shall cause such a lien to attach without action on behalf of the
8 commissioner or the state. In the event of an employer's adjudication
9 in bankruptcy, judicially confirmed extension proposal, or
10 composition, under the federal bankruptcy act of 1898, as amended,
11 tax, interest, or penalties then or thereafter due shall be entitled
12 to such priority as provided in that act, as amended.

13 NEW SECTION. **Sec. 18.** CIVIL ACTIONS—SERVICE OF PROCESS. (1) If
14 after due notice, any employer defaults in any payment of tax,
15 interest, or penalties, the amount due may be collected by civil
16 action in the name of the state, and the employer adjudged in default
17 shall pay the cost of such action. Any lien created by this chapter
18 may be foreclosed by decree of the court in any such action. Civil
19 actions brought under this chapter to collect tax, interest, or
20 penalties from an employer shall be heard by the court at the
21 earliest possible date and shall be entitled to preference upon the
22 calendar of the court over all other civil actions except petitions
23 for judicial review under this chapter, cases arising under the
24 unemployment compensation laws of this state, and cases arising under
25 the industrial insurance laws of this state.

26 (2) Any employer that is not a resident of this state and that
27 exercises the privilege of having one or more individuals perform
28 service for it within this state, and any resident employer that
29 exercises that privilege and thereafter removes from this state,
30 shall be deemed thereby to appoint the secretary of state as its
31 agent and attorney for the acceptance of process in any action under
32 this chapter. In instituting such an action against any such employer
33 the commissioner shall cause such process or notice to be filed with
34 the secretary of state and such service shall be sufficient service
35 upon such employer, and shall be of the same force and validity as if
36 served upon it personally within this state if the commissioner shall
37 forthwith send notice of the service of such process or notice,
38 together with a copy thereof, by registered mail, return receipt
39 requested, to such employer at its last known address and such return

1 receipt, the commissioner's affidavit of compliance with the
2 provisions of this section, and a copy of the notice of service shall
3 be appended to the original of the process filed in the court in
4 which such action is pending.

5 NEW SECTION. **Sec. 19.** INJUNCTION FROM CONTINUING IN BUSINESS.
6 Any employer who is delinquent in the payment of tax, interest, or
7 penalties may be enjoined upon the suit of the state of Washington
8 from continuing in business in this state or employing persons herein
9 until the delinquent tax, interest, and penalties have been paid, or
10 until the employer has furnished a good and sufficient bond in a sum
11 equal to double the amount of tax, interest, and penalties already
12 delinquent, plus such further sum as the court deems adequate to
13 protect the department in the collection of tax, interest, and
14 penalties which will become due from such employer during the next
15 ensuing calendar year, said bond to be conditioned upon payment of
16 all tax, interest, and penalties due and owing within 30 days after
17 the expiration of the next ensuing calendar year or at such earlier
18 date as the court may fix. Action under this section may be
19 instituted in the superior court of any county of the state wherein
20 the employer resides, has its principal place of business, or where
21 it has anyone performing services for it, whether or not such
22 services constitute employment.

23 NEW SECTION. **Sec. 20.** COMPROMISE OF CLAIMS. The commissioner
24 may compromise any claim for tax, interest, or penalties due and
25 owing from an employer where collection of the full amount due and
26 owing, whether reduced to judgment or otherwise, would be against
27 equity and good conscience. Whenever a compromise is made by the
28 commissioner in the case of a claim for tax, interest, or penalties,
29 whether reduced to judgment or otherwise, there shall be placed on
30 file in the department a statement of the amount of tax, interest,
31 and penalties imposed by law and claimed due, attorneys' fees and
32 costs, if any, a complete record of the compromise agreement, and the
33 amount actually paid in accordance with the terms of the compromise
34 agreement. If any such compromise is accepted by the commissioner,
35 within such time as may be stated in the compromise or agreed to,
36 such compromise shall be final and conclusive and except upon showing
37 of fraud or malfeasance or misrepresentation of a material fact the
38 case shall not be reopened as to the matters agreed upon. In any

1 suit, action, or proceeding, such agreement or any determination,
2 collection, payment, adjustment, refund, or credit made in accordance
3 therewith shall not be annulled, modified, set aside, or disregarded.

4 NEW SECTION. **Sec. 21.** UNCOLLECTIBLE ACCOUNTS. The commissioner
5 may charge off as uncollectible and no longer an asset of the general
6 fund of the state, any delinquent tax, interest, penalties, or
7 credits if the commissioner is satisfied that there are no cost-
8 effective means of collecting the tax, interest, or penalties.

9 NEW SECTION. **Sec. 22.** GENERALLY. (1) Any aggrieved party may
10 file an appeal from any determination or redetermination with the
11 commissioner within 30 days after the date of notification or
12 mailing, whichever is earlier, of such determination or
13 redetermination to the party's last known address. If an appeal with
14 respect to any determination is pending as of the date when a
15 redetermination is issued, such appeal, unless withdrawn, shall be
16 treated as an appeal from such redetermination.

17 (2) Upon receipt of a notice of appeal, the commissioner shall
18 request the assignment of an administrative law judge under chapter
19 34.12 RCW to conduct a hearing in accordance with chapter 34.05 RCW
20 and issue a proposed order.

21 NEW SECTION. **Sec. 23.** ASSESSMENTS. (1) When an order and notice
22 of assessment has been served upon or mailed to a delinquent
23 employer, the employer may within 30 days file an appeal with the
24 department, stating that the assessment is unjust or incorrect and
25 requesting a hearing. The appeal must set forth the reasons why the
26 assessment is objected to and the amount of tax, if any, which the
27 employer admits to be due. If no appeal is filed, the assessment
28 shall be conclusively deemed to be just and correct except that in
29 such case, and in cases where payment of tax, interest, or penalties
30 has been made pursuant to a jeopardy assessment, the commissioner may
31 properly entertain a subsequent application for refund. The filing of
32 an appeal on a disputed assessment with the administrative law judge
33 stays the distraint and sale proceeding provided for in this chapter
34 until a final decision has been made, but the filing of an appeal
35 shall not affect the right of the commissioner to perfect a lien, as
36 provided by this chapter, upon the property of the employer. The
37 filing of a petition on a disputed assessment stays the accrual of

1 interest and penalties on the disputed taxes until a final decision
2 is made.

3 (2) Within 30 days after notice of denial of refund or adjustment
4 has been mailed or delivered, whichever is the earlier, to an
5 employer, the employer may file an appeal with the department for a
6 hearing unless assessments have been appealed from and have become
7 final. The employer shall set forth the reasons why such hearing
8 should be granted and the amount which the employer believes should
9 be adjusted or refunded. If no appeal is filed within said 30 days,
10 the determination of the commissioner as stated in the notice shall
11 be final.

12 NEW SECTION. **Sec. 24.** WHEN DEEMED FILED AND RECEIVED. The
13 appeal or petition from a determination, redetermination, order and
14 notice of assessment, appeals decision, or commissioner's decision is
15 deemed filed and received if properly addressed and with sufficient
16 postage:

17 (1) If transmitted through the United States mail, on the date
18 shown by the United States postal service cancellation mark;

19 (2) If mailed but not received by the addressee, or where
20 received and the United States postal service cancellation mark is
21 illegible, erroneous, or omitted, on the date it was mailed, if the
22 sender establishes by competent evidence that the appeal or petition
23 was deposited in the United States mail on or before the date due for
24 filing; or

25 (3) In the case of a metered cancellation mark by the sender and
26 a United States postal service cancellation mark on the same envelope
27 or other wrapper, the latter shall control.

28 NEW SECTION. **Sec. 25.** ASSESSMENTS—PROCEDURE. In any proceeding
29 before an administrative law judge involving an appeal from a
30 disputed order and notice of assessment or a disputed denial of
31 refund or adjustment, the administrative law judge, after affording
32 the parties a reasonable opportunity for hearing, shall affirm,
33 modify, or set aside the notice of assessment or denial of refund.
34 The parties shall be duly notified of such decision together with the
35 reasons, which shall be deemed to be the final decision unless within
36 30 days after the date of notification or mailing, whichever is the
37 earlier, of such decision, further appeal is perfected pursuant to

1 the provisions of this chapter relating to review by the
2 commissioner.

3 NEW SECTION. **Sec. 26.** HEARING PROCEDURES. The manner in which
4 any dispute is presented to the administrative law judge, and the
5 conduct of hearings and appeals, shall be in accordance with rules
6 adopted by the commissioner. A full and complete record shall be kept
7 of all administrative law judge proceedings. All testimony at any
8 appeal hearing shall be recorded, but need not be transcribed unless
9 further appeal is taken.

10 NEW SECTION. **Sec. 27.** COMMISSIONER REVIEW—INITIATION. Within 30
11 days from the date of notification or mailing, whichever is the
12 earlier, of any decision of an administrative law judge, the
13 commissioner on the commissioner's own order may, or upon petition of
14 any interested party shall, take jurisdiction of the proceedings for
15 the purpose of review. Appeal from any decision of an administrative
16 law judge may be perfected so as to prevent finality of such decision
17 if, within 30 days from the date of notification or mailing of the
18 decision, whichever is the earlier, a petition in writing for review
19 by the commissioner is received by the commissioner or by such
20 representative of the commissioner as the commissioner by rule shall
21 prescribe. The commissioner may also prevent finality of any decision
22 of an administrative law judge and take jurisdiction of the
23 proceedings for the commissioner's review by entering an order so
24 providing on the commissioner's own motion and mailing a copy thereof
25 to the interested parties within the same period allowed for receipt
26 of a petition for review. The time limit provided for the
27 commissioner's assumption of jurisdiction on the commissioner's own
28 motion for review shall be deemed to be jurisdictional.

29 NEW SECTION. **Sec. 28.** COMMISSIONER REVIEW—PROCEDURE. After
30 having acquired jurisdiction for review, the commissioner shall
31 review the proceedings in question. Prior to rendering a decision,
32 the commissioner may order the taking of additional evidence by an
33 administrative law judge to be made a part of the record in the case.
34 Upon the basis of evidence submitted to the administrative law judge
35 and such additional evidence as the commissioner may order to be
36 taken, the commissioner shall render a decision in writing affirming,
37 modifying, or setting aside the decision of the administrative law

1 judge. Alternatively, the commissioner may order further proceedings
2 to be held before the administrative law judge, upon completion of
3 which the administrative law judge shall issue a new decision in
4 writing affirming, modifying, or setting aside the previous decision
5 of the administrative law judge. The new decision of the
6 administrative law judge may be appealed as provided under section 27
7 of this act. The commissioner shall mail the decision of the
8 commissioner to the interested parties at their last known addresses.

9 NEW SECTION. **Sec. 29.** COMMISSIONER REVIEW—WHEN FINAL—
10 COMMISSIONER AS PARTY. Any decision of the commissioner involving a
11 review of an administrative law judge decision, in the absence of a
12 petition as provided in chapter 34.05 RCW, becomes final 30 days
13 after notification or mailing, whichever is earlier. The commissioner
14 shall be deemed to be a party to any judicial action involving any
15 such decision and shall be represented in any such judicial action by
16 the attorney general.

17 NEW SECTION. **Sec. 30.** APPLICABILITY OF FINDINGS,
18 DETERMINATIONS, ETC., TO OTHER ACTIONS. Any finding, determination,
19 conclusion, declaration, or final order made by the commissioner, or
20 the commissioner's representative or delegate, or by an appeal
21 tribunal, administrative law judge, reviewing officer, or other agent
22 of the department for the purposes of this chapter, shall not be
23 conclusive, nor binding, nor admissible as evidence in any separate
24 action outside the scope of this chapter between an employee and the
25 employee's present or prior employer before an arbitrator, court, or
26 judge of this state or the United States, regardless of whether the
27 prior action was between the same or related parties or involved the
28 same facts or was reviewed pursuant to section 33 of this act.

29 NEW SECTION. **Sec. 31.** WAIVER OF TIME LIMITATIONS. For good
30 cause shown the administrative law judge or the commissioner may
31 waive the time limitations for administrative appeals or petitions
32 set forth in this chapter.

33 NEW SECTION. **Sec. 32.** JUDICIAL REVIEW. (1) In all court
34 proceedings under or pursuant to this chapter the decision of the
35 commissioner shall be prima facie correct, and the burden of proof
36 shall be upon the party challenging the decision.

1 (2) If the court determines that the commissioner has acted
2 within the commissioner's power and has correctly construed the law,
3 the decision of the commissioner shall be confirmed; otherwise, the
4 decision shall be reversed or modified. In case of a modification or
5 reversal the superior court shall refer the decision to the
6 commissioner with an order directing the commissioner to proceed in
7 accordance with the findings of the court.

8 (3) Whenever any order and notice of assessment shall have become
9 final in accordance with the provisions of this chapter, the court
10 shall upon application of the commissioner enter a judgment in the
11 amount provided for in the order and notice of assessment, and the
12 judgment shall have and be given the same effect as if entered
13 pursuant to a civil action instituted in the court.

14 NEW SECTION. **Sec. 33.** JUDICIAL REVIEW—PROCEDURE. Judicial
15 review of a decision of the commissioner involving the review of a
16 decision of an administrative law judge under this chapter may be had
17 only in accordance with the procedural requirements of RCW 34.05.452.

18 NEW SECTION. **Sec. 34.** REMEDIES EXCLUSIVE. The remedies provided
19 in this chapter for determining the justness or correctness of
20 assessments, refunds, adjustments, or claims shall be exclusive and
21 no court shall entertain any action to enjoin an assessment or
22 require a refund or adjustment except in accordance with the
23 provisions of this chapter. Matters which may be determined by the
24 procedures set out in this chapter shall not be the subject of any
25 declaratory judgment.

26 NEW SECTION. **Sec. 35.** DEPOSITING FUNDS. All tax, interest, and
27 penalties collected under this chapter must be deposited in the
28 general fund of the state.

29 NEW SECTION. **Sec. 36.** PROCUREMENT EXEMPTION. The department is
30 exempt from the requirements of chapter 39.26 RCW until October 1,
31 2026, for purposes of implementing Title 50C RCW (the new title
32 created in section 40 of this act).

33 NEW SECTION. **Sec. 37.** RULE MAKING. The department may adopt
34 rules as necessary to implement this title.

1 NEW SECTION. **Sec. 38.** SHORT TITLE. This act may be known and
2 cited as the payroll expense tax act.

3 NEW SECTION. **Sec. 39.** SEVERABILITY. If any provision of this
4 act or its application to any person or circumstance is held invalid,
5 the remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 40.** CODIFICATION. Sections 1 through 38 of
8 this act constitute a new chapter in a new title to be codified as
9 Title 50C RCW.

10 NEW SECTION. **Sec. 41.** NECESSITY OF ACT. This act is necessary
11 for the support of the state government and its existing public
12 institutions.

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