

**Chapter 50.29 RCW**  
**EMPLOYER EXPERIENCE RATING**

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**RCW 50.29.010 Definitions.** As used in this chapter:

- (1) "Computation date" means July 1st of any year;
- (2) "Cut-off date" means September 30th next following the computation date;
- (3) "Payroll" means all wages (as defined for contribution purposes) paid by an employer to individuals in his or her employment;
- (4) "Qualification date" means April 1st of the second year preceding the computation date;
- (5) "Qualified employer" means any employer who (a) reported some employment in the twelve-month period beginning with the qualification date, (b) had no period of four or more consecutive calendar quarters for which he or she reported no employment in the two calendar years immediately preceding the computation date, and (c) has submitted by the cut-off date all reports, contributions, interest, and penalties required under this title for the period preceding the computation date. Unpaid contributions, interest, and penalties must be disregarded for the purposes of this section if they constitute less than either one hundred dollars or one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding the computation date. Late reports, contributions, penalties, or interest may be disregarded for the purposes of this section if showing is made to the satisfaction of the commissioner, as the commissioner may define by rule, that an otherwise qualified employer acted in good faith and that forfeiture of qualification for a reduced contribution rate because of such delinquency would be inequitable;
- (6) "Rate year" means the calendar year immediately following the computation date. [2009 c 83 § 1; 2002 c 149 § 11; 1987 c 213 § 2;

1986 c 111 § 1; 1984 c 205 § 3; 1983 1st ex.s. c 23 § 17; 1973 1st ex.s. c 158 § 11; 1971 c 3 § 16; 1970 ex.s. c 2 § 10.]

**Reviser's note:** The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

**Conflict with federal requirements—2009 c 83:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2009 c 83 § 2.]

**Conflict with federal requirements—Severability—2002 c 149:** See notes following RCW 50.22.140.

**Construction—1987 c 213:** "This act shall not be construed as affecting any existing right acquired or liability or obligation incurred under the sections amended or repealed in this act, or under any rule, regulation, or order adopted under those sections, nor as affecting any proceeding instituted thereunder." [1987 c 213 § 4.]

**Conflict with federal requirements—1986 c 111:** "If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1986 c 111 § 2.]

**Severability—1986 c 111:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [1986 c 111 § 4.]

**Conflict with federal requirements—Severability—Effective dates—1984 c 205:** See notes following RCW 50.20.120.

**Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23:** See notes following RCW 50.04.073.

**Effective date—1973 1st ex.s. c 158:** See note following RCW 50.08.020.

**Construction—Compliance with federal act—1971 c 3:** See RCW 50.44.080.

**Effective date—1970 ex.s. c 2:** See note following RCW 50.04.020.

*Wages defined for contribution purposes: RCW 50.04.320.*

**RCW 50.29.021 Experience rating accounts—Benefits not charged.**

(1)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's base year in the same ratio that the wages paid by each employer to the individual during the base year bear to the wages paid by all employers to that individual during that base year, except as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experience rating account of only the individual's separating employer if:

(i) The individual qualifies for benefits under RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work;

(ii) The individual qualifies for benefits under RCW 50.20.050 (1)(b)(v) through (x) or (2)(b)(v) through (x); or

(iii) During a public health emergency, the claimant worked at a health care facility as defined in RCW 9A.50.010, was directly involved in the delivery of health services, and was terminated from work due to entering quarantine because of exposure to or contracting the disease that is the subject of the declaration of the public health emergency.

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer, except as provided in subsection (4) of this section.

(b) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050(1)(b)(iv) or (xi), (2)(b)(ii), only for separation that was necessary because the care for a child or a vulnerable adult in the claimant's care is inaccessible, (iv), (xi), (xii), or (xiii), or (3), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) Benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (2)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(g) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

(h) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

(i)(i) Benefits paid during the one week waiting period when the one week waiting period is fully paid or fully reimbursed by the federal government shall not be charged to the experience rating account of any contribution paying employer.

(ii) In the event the one week waiting period is partially paid or partially reimbursed by the federal government, the department may, by rule, elect to not charge, in full or in part, benefits paid during the one week waiting period to the experience rating account of any contribution paying employer.

(j) Benefits paid for all weeks starting with the week ending March 28, 2020, and ending with the week ending May 30, 2020, shall not be charged to the experience rating account of any contribution paying employer.

(3)(a) A contribution paying base year employer, except employers as provided in subsection (5) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster, or to the presence of any dangerous, contagious, or infectious disease that is the subject of a public health emergency at the employer's plant, building, worksite, or other facility;

(iv) Continues to be employed by the employer seeking relief and: (A) The employer furnished part-time work to the individual during the base year; (B) the individual has become eligible for benefits because of loss of employment with one or more other employers; and (C) the employer has continued to furnish or make available part-time work to the individual in substantially the same amount as during the individual's base year. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035;

(vi) Worked for an employer for 20 weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection (3)(a)(vi) applies to claims with an effective date on or after January 1, 2020; or

(vii) Was discharged because the individual was unable to satisfy a job prerequisite required by law or administrative rule.

(b) The employer requesting relief of charges under this subsection must request relief in writing within 30 days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(4) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(5) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b) (i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without

establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or

(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents. [2023 c 451 § 2; 2023 c 240 § 3; 2021 c 251 § 4; 2021 c 2 § 16; 2020 c 86 § 3; 2019 c 13 § 65; 2017 3rd sp.s. c 5 § 83. Prior: 2013 c 244 § 1; 2013 c 189 § 3; 2011 c 4 § 14; 2010 c 25 § 1; prior: 2009 c 493 § 1; 2009 c 50 § 1; 2009 c 3 § 13; 2008 c 323 § 2; 2007 c 146 § 2; 2006 c 13 § 6; 2005 c 133 § 4; 2003 2nd sp.s. c 4 § 21.]

**Reviser's note:** This section was amended by 2023 c 240 § 3 and by 2023 c 451 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Conflict with federal requirements—2023 c 240:** See note following RCW 50.20.050.

**Conflict with federal requirements—2021 c 251 §§ 1-4:** See note following RCW 50.04.294.

**Effective date—2021 c 251:** See note following RCW 50.04.294.

**Intent—Conflict with federal requirements—Effective date—2021 c 2:** See notes following RCW 50.04.323.

**Conflict with federal requirements—2020 c 86:** See note following RCW 50.12.200.

**Conflict with federal requirements—2013 c 244:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 244 § 2.]

**Effective date—2013 c 244:** "This act takes effect January 1, 2014." [2013 c 244 § 4.]

**Conflict with federal requirements—Effective date—2013 c 189:** See notes following RCW 50.16.010.

**Contingent effective date—2011 c 4 §§ 7-15:** See note following RCW 50.20.099.

**Contingent expiration date—2011 c 4 §§ 3 and 6:** "Sections 3 and 6 of this act expire July 1, 2012, unless the United States department of labor determines by October 1, 2011, that this act does not meet

the requirements of section 2003 of the federal American recovery and reinvestment act of 2009 for unemployment insurance modernization incentive funding." [2011 c 4 § 23.] The United States department of labor determined that this act meets the requirements of section 2003 of the federal American recovery and reinvestment act of 2009.

**Notice—2011 c 4:** "The employment security department must provide notice of the expiration date of sections 3 and 6 of this act and the effective date of sections 7 through 15 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department." [2011 c 4 § 25.] The employment security department provided notice to the office of the code reviser on July 11, 2011. See notes following RCW 50.29.021 and 50.20.099.

**Effective date—2011 c 4 §§ 1-6 and 16-21:** See note following RCW 50.20.120.

**Conflict with federal requirements—2011 c 4:** "\*If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2011 c 4 § 20.]

**\*Reviser's note:** See 2011 c 4 § 21 (uncodified), following this note.

**Conflict with federal requirements—2011 c 4:** "In determining under section 20 of this act which if any part of this act is in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in the state for federal unemployment tax credits, the commissioner of the Washington state employment security department shall have full and complete authority and discretion to determine the extent of the conflict and to determine which provisions of this act shall be inoperative and which shall remain in effect in order to remedy the conflict with federal requirements." [2011 c 4 § 21.]

**Effective date—2010 c 25 § 1:** "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 12, 2010]." [2010 c 25 § 6.]

**Conflict with federal requirements—2010 c 25:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under

this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2010 c 25 § 4.]

**Conflict with federal requirements—2009 c 493:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2009 c 493 § 5.]

**Short title—Effective date—Conflict with federal requirements—2009 c 3:** See notes following RCW 50.20.120.

**Conflict with federal requirements—2008 c 323:** See note following RCW 50.20.050.

**Conflict with federal requirements—Severability—2007 c 146:** See notes following RCW 50.04.080.

**Conflict with federal requirements—Part headings not law—Severability—2006 c 13:** See notes following RCW 50.20.120.

**Findings—Intent—Conflict with federal requirements—Effective date—2005 c 133:** See notes following RCW 50.20.120.

**Additional employees authorized—2005 c 133:** See note following RCW 50.01.010.

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.

**RCW 50.29.025 Contribution rates.** (1) The contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

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

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

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate



for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.11
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43
0.005000	0.006250	6	0.54
0.006250	0.007500	7	0.65
0.007500	0.008750	8	0.76
0.008750	0.010000	9	0.88
0.010000	0.011250	10	1.01
0.011250	0.012500	11	1.14
0.012500	0.013750	12	1.28
0.013750	0.015000	13	1.41
0.015000	0.016250	14	1.54
0.016250	0.017500	15	1.67
0.017500	0.018750	16	1.80
0.018750	0.020000	17	1.94
0.020000	0.021250	18	2.07
0.021250	0.022500	19	2.20
0.022500	0.023750	20	2.38
0.023750	0.025000	21	2.50
0.025000	0.026250	22	2.63
0.026250	0.027500	23	2.75
0.027500	0.028750	24	2.88
0.028750	0.030000	25	3.00
0.030000	0.031250	26	3.13
0.031250	0.032500	27	3.25
0.032500	0.033750	28	3.38
0.033750	0.035000	29	3.50
0.035000	0.036250	30	3.63
0.036250	0.037500	31	3.75
0.037500	0.040000	32	4.00
0.040000	0.042500	33	4.25
0.042500	0.045000	34	4.50
0.045000	0.047500	35	4.75
0.047500	0.050000	36	5.00
0.050000	0.052500	37	5.15
0.052500	0.055000	38	5.25
0.055000	0.057500	39	5.30
0.057500		40	5.40

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

(i) (A) Except as provided in (b) (i) (B) and (C) of this subsection, the commissioner shall calculate the flat social cost

factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) (I) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011 and thereafter, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent except for rate year 2021 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2022 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2023 the calculation may not result in a flat social cost factor that is more than seven-tenths percent, for rate year 2024 the calculation may not result in a flat social cost factor that is more than eighty-five one-hundredths percent, and for rate year 2025 the calculation may not result in a flat social cost factor that is more than nine-tenths percent.

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

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

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

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

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

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

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

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

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

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

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

- (A) Rate class 1 - 40 percent;
- (B) Rate class 2 - 44 percent;
- (C) Rate class 3 - 48 percent;
- (D) Rate class 4 - 52 percent;
- (E) Rate class 5 - 56 percent;
- (F) Rate class 6 - 60 percent;
- (G) Rate class 7 - 64 percent;
- (H) Rate class 8 - 68 percent;
- (I) Rate class 9 - 72 percent;
- (J) Rate class 10 - 76 percent;
- (K) Rate class 11 - 80 percent;
- (L) Rate class 12 - 84 percent;
- (M) Rate class 13 - 88 percent;
- (N) Rate class 14 - 92 percent;
- (O) Rate class 15 - 96 percent;
- (P) Rate class 16 - 100 percent;
- (Q) Rate class 17 - 104 percent;
- (R) Rate class 18 - 108 percent;
- (S) Rate class 19 - 112 percent;
- (T) Rate class 20 - 116 percent; and
- (U) Rate classes 21 through 40 - 120 percent.

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

(iv) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment

benefits paid to claimants in the same four consecutive calendar quarters.

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

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

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

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

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

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

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

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

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

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

(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place

with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

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

(2) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the North American industry classification system code. [2022 c 61 § 1; 2022 c 17 § 1; 2021 c 2 § 17. Prior: 2011 c 4 § 16; 2011 c 3 § 3; 2010 c 72 § 1; prior: 2009 c 493 § 2; 2009 c 3 § 14; 2007 c 51 § 1; 2006 c 13 § 4; 2005 c 133 § 5; 2003 2nd sp.s. c 4 § 14; 2003 c 4 § 1; 2000 c 2 § 4; 1995 c 4 § 2; (1995 c 4 § 1 expired January 1, 1998); prior: 1993 c 483 § 21; 1993 c 226 § 14; 1993 c 226 § 13; 1990 c 245 § 7; 1989 c 380 § 79; 1987 c 171 § 3; 1985 ex.s. c 5 § 7; 1984 c 205 § 5.]

**Reviser's note:** This section was amended by 2022 c 17 § 1 and by 2022 c 61 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—2022 c 61:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 11, 2022]." [2022 c 61 § 3.]

**Intent—Conflict with federal requirements—Effective date—2021 c 2:** See notes following RCW 50.04.323.

**Effective date—2011 c 4 §§ 1-6 and 16-21:** See note following RCW 50.20.120.

**Conflict with federal requirements—2011 c 4:** See note following RCW 50.29.021.

**Conflict with federal requirements—Effective date—2011 c 3:** See notes following RCW 50.22.010.

**Conflict with federal requirements—2010 c 72:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2010 c 72 § 3.]

**Conflict with federal requirements—2009 c 493:** See note following RCW 50.29.021.

**Short title—Effective date—Conflict with federal requirements—2009 c 3:** See notes following RCW 50.20.120.

**Conflict with federal requirements—2007 c 51:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2007 c 51 § 2.]

**Severability—2007 c 51:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2007 c 51 § 3.]

**Application—2007 c 51:** "This act applies for rate years beginning on or after January 1, 2008." [2007 c 51 § 4.]

**Application—2006 c 13 §§ 4 and 5:** "Sections 4 and 5 of this act apply to rate years beginning on or after January 1, 2007." [2006 c 13 § 26.]

**Conflict with federal requirements—Part headings not law—Severability—2006 c 13:** See notes following RCW 50.20.120.

**Findings—Intent—Conflict with federal requirements—Effective date—2005 c 133:** See notes following RCW 50.20.120.

**Additional employees authorized—2005 c 133:** See note following RCW 50.01.010.

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.

**Application—2003 c 4 § 1:** "Section 1 of this act applies to rate years beginning on or after January 1, 2003." [2003 c 4 § 2.]

**Effective date—2003 c 4:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 12, 2003]." [2003 c 4 § 3.]

**Application—2000 c 2 §§ 1, 2, 4, 5, 8, and 12-15:** See note following RCW 50.22.150.

**Conflict with federal requirements—Severability—Effective date—2000 c 2:** See notes following RCW 50.04.355.

**Effective dates—1995 c 4:** "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [March 16, 1995].

(2) Section 2 of this act shall take effect January 1, 1998." [1995 c 4 § 4.]

**Expiration date—1995 c 4 § 1:** "Section 1 of this act shall expire January 1, 1998." [1995 c 4 § 5.]

**Effective dates, applicability—Conflict with federal requirements—Severability—1993 c 483:** See notes following RCW 50.04.293.

**Elevation of employer contribution rates—Report by commissioner—1993 c 226:** "Prior to any increase in the employer tax schedule as provided in section 13, chapter 226, Laws of 1993, the commissioner shall provide a report to the appropriate committees of the legislature specifying to what extent the workforce training expenditures in chapter 226, Laws of 1993 elevated employer contribution rates for the effective tax schedule." [1993 c 226 § 16.]

**Effective dates—1993 c 226 §§ 10, 12, and 14:** See note following RCW 50.16.010.

**Conflict with federal requirements—Severability—Application—1993 c 226:** See notes following RCW 50.16.010.

**Conflict with federal requirements—Effective dates—1990 c 245:** See notes following RCW 50.04.030.

**Effective date—1989 c 380 §§ 78-81:** See note following RCW 50.04.150.

**Conflict with federal requirements—1989 c 380:** See note following RCW 50.04.150.

**Conflict with federal requirements—Severability—1987 c 171:** See notes following RCW 50.62.010.

**Conflict with federal requirements—Severability—1985 ex.s. c 5:** See notes following RCW 50.62.010.

**Conflict with federal requirements—Severability—Effective dates—1984 c 205:** See notes following RCW 50.20.120.

**RCW 50.29.026 Modification of contribution rate.** (1) Except as provided in subsection (3) of this section, a qualified employer's contribution rate or array calculation factor rate determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th that were used for the purpose of

computing the employer's contribution rate or array calculation factor rate. On receiving timely payment of a voluntary contribution, plus a surcharge of ten percent of the amount of the voluntary contribution, the commissioner shall cancel the benefits equal to the amount of the voluntary contribution, excluding the surcharge, and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution, excluding the surcharge, must be an amount that will result in a recomputed benefit ratio that is in a rate class at least four rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate required under this title for the rate year for which the employer is seeking a modification of the employer's rate and ending on February 15th of that rate year.

(c) A benefit ratio may not be recomputed nor a rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) Except as provided in subsection (3) of this section, this section does not apply to any employer who has not had an increase of at least twelve rate classes from the previous tax rate year.

(3) From February 8, 2021, and until May 31, 2026, the following applies:

(a) The surcharge in subsection (1)(a) of this section will not be charged or used in the calculations;

(b) The ending payment date in subsection (1)(b) of this section is March 31st;

(c) The minimum amount of a voluntary contribution must be an amount that will result in a recomputed benefit ratio that is in a rate class at least two rate classes lower than the rate class that included the employer's original benefit ratio; and

(d) This section does not apply to any employer who has not had an increase of at least eight rate classes from the previous tax rate year. [2021 c 2 § 18; 2003 2nd sp.s. c 4 § 17; 2000 c 2 § 5; 1995 c 322 § 1.]

**Intent—Conflict with federal requirements—Effective date—2021 c 2:** See notes following RCW 50.04.323.

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.

**Application—2000 c 2 §§ 1, 2, 4, 5, 8, and 12-15:** See note following RCW 50.22.150.

**Conflict with federal requirements—Severability—Effective date—2000 c 2:** See notes following RCW 50.04.355.

**Conflict with federal requirements—1995 c 322:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state



or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1995 c 322 § 2.]

**RCW 50.29.027 Benefit ratio computed for 1985 and thereafter.**

For the rate year 1985 and each rate year thereafter, a benefit ratio shall be computed for each qualified employer by dividing the total amount of benefits charged to the account of the employer during the forty-eight consecutive months immediately preceding the computation date by the taxable payrolls of the employer for the same forty-eight month period as reported to the department by the cut-off dates. The division shall be carried to the sixth decimal place with the remaining fraction, if any, disregarded. [1984 c 205 § 4.]

**Conflict with federal requirements—Severability—Effective dates—1984 c 205:** See notes following RCW 50.20.120.

**RCW 50.29.030 "Wages" defined for purpose of prorating benefit charges.** For the purpose of prorating benefit charges "wages" shall mean "wages" as defined for purpose of payment of benefits in RCW 50.04.320. [1970 ex.s. c 2 § 12.]

**Effective date—1970 ex.s. c 2:** See note following RCW 50.04.020.

*Government or retirement pension plan payments as remuneration or wages—Recovery of excess over benefits allowable, limitations: RCW 50.04.323.*

**RCW 50.29.041 Contribution rate—Solvency surcharge.** Except for contributions assessed for rate years 2021, 2022, 2023, 2024, and 2025, the contribution rate of each employer subject to contributions under RCW 50.24.010 shall include a solvency surcharge determined as follows:

(1) This section shall apply to employers' contributions for a rate year immediately following a cut-off date only if, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide fewer than seven months of unemployment benefits.

(2) The solvency surcharge shall be the lowest rate necessary, as determined by the commissioner, but not more than two-tenths of one percent, to provide revenue during the applicable rate year that will fund unemployment benefits for the number of months that is the difference between nine months and the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits.

(3) The basis for determining the number of months of unemployment benefits shall be the same basis used in RCW

50.29.025(1)(b)(i)(B). [2021 c 2 § 19; 2006 c 13 § 5; 2003 2nd sp.s. c 4 § 16.]

**Intent—Conflict with federal requirements—Effective date—2021 c 2:** See notes following RCW 50.04.323.

**Application—2006 c 13 §§ 4 and 5:** See note following RCW 50.29.025.

**Conflict with federal requirements—Part headings not law—Severability—2006 c 13:** See notes following RCW 50.20.120.

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.

**RCW 50.29.062 Contribution rates for predecessor and successor employers.** (1) If the department finds that a significant purpose of the transfer of the business is to obtain a reduced array calculation factor rate, contribution rates shall be computed and penalties and other sanctions shall apply as specified in RCW 50.29.063.

(2) If subsection (1) of this section and RCW 50.29.063 do not apply and if the department finds that an employer is a successor, or partial successor, to a predecessor business, predecessor and successor employer contribution rates shall be computed in the following manner:

(a) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer of a business, the following applies:

(i) The successor's contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(ii) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on a combination of the following:

(A) The successor's experience with payrolls and benefits; and

(B) Any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor.

(b) If the successor is not an employer at the time of the transfer, the following applies:

(i) Except as provided in (b)(ii) and (iii) of this subsection (2), the successor shall pay contributions:

(A) At the contribution rate assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor.

(B) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on an array calculation factor rate that is a combination of the following: The successor's experience with payrolls and benefits; and any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor if qualified under RCW 50.29.010 by including the transferred experience. If not qualified under RCW 50.29.010, the contribution rate shall equal the sum of the rates determined by the commissioner under RCW

50.29.025(1)(d) and 50.29.041, if applicable, and continuing until the successor qualifies for a different rate, including the transferred experience.

(ii) If there is a substantial continuity of ownership, control, or management by the successor of the business of the predecessor, the successor shall pay contributions at the contribution rate determined for the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor. Beginning January 1st following the transfer, the successor's array calculation factor rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer.

(iii) If the successor simultaneously acquires the business or a portion of the business of two or more employers with different contribution rates, the successor's rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the sum of the rates determined by the commissioner under RCW 50.29.025(1)(a) and (b) and 50.29.041, applicable at the time of the acquisition, to the predecessor employer who, among the parties to the acquisition, had the largest total payroll in the completed calendar quarter immediately preceding the date of transfer, but not less than the sum of the rates determined by the commissioner under RCW 50.29.025(1)(d) and 50.29.041, if applicable.

(c) With respect to predecessor employers:

(i) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(ii) In all cases, beginning January 1st following the transfer, the predecessor's contribution rate or the predecessor's array calculation factor for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year excluding the experience of the transferred business or transferred portion of business as that experience has transferred to the successor: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

(3) A predecessor-successor relationship does not exist for purposes of subsection (2) of this section when a significant purpose of the transfer of a business or its operating assets is for the employer to move or expand an existing business, or for an employer to establish a substantially similar business under common ownership, management, and control. However, if an employer transfers its business to another employer, and both employers are at the time of transfer under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to, and combined with the unemployment experience attributable to, the employer to whom such business is so transferred as specified in subsection (2)(a) of this section.

(4) For purposes of this section, "transfer of a business" means the same as RCW 50.29.063(4)(c). [2021 c 2 § 20; 2012 1st sp.s. c 2 § 1; 2010 c 25 § 2; 2009 c 225 § 1; 2006 c 47 § 2; 2003 2nd sp.s. c 4 § 18; 1996 c 238 § 1; 1995 c 56 § 1; 1989 c 380 § 81; 1984 c 205 § 6.]

**Intent—Conflict with federal requirements—Effective date—2021 c 2:** See notes following RCW 50.04.323.

**Conflict with federal requirements—2012 1st sp.s. c 2:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2012 1st sp.s. c 2 § 2.]

**Conflict with federal requirements—2010 c 25:** See note following RCW 50.29.021.

**Conflict with federal requirements—2009 c 225:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2009 c 225 § 3.]

**Conflict with federal requirements—2006 c 47:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2006 c 47 § 5.]

**Severability—2006 c 47:** "If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected." [2006 c 47 § 6.]

**Effective date—2006 c 47:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 14, 2006]." [2006 c 47 § 7.]

**Retroactive application—2006 c 47:** "This act is remedial in nature and shall be applied retroactively to January 1, 2006." [2006 c 47 § 8.]

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.

**Application—1996 c 238:** "This act applies to unemployment contribution rates effective on and after January 1, 1996." [1996 c 238 § 2.]

**Conflict with federal requirements—1996 c 238:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [1996 c 238 § 3.]

**Effective date—1989 c 380 §§ 78-81:** See note following RCW 50.04.150.

**Conflict with federal requirements—1989 c 380:** See note following RCW 50.04.150.

**Conflict with federal requirements—Severability—Effective dates—1984 c 205:** See notes following RCW 50.20.120.

**RCW 50.29.063 Predecessor or successor employers—Transfer to obtain reduced array calculation factor rate—Evasion of successor provisions—Penalties.**

(1) If it is found that a significant purpose of the transfer of a business was to obtain a reduced array calculation factor rate, then the following applies:

(a) If the successor was an employer at the time of the transfer, then the experience rating accounts of the employers involved shall be combined into a single account and the employers assigned the higher of the predecessor or successor array calculation factor rate to take effect as of the date of the transfer.

(b) If the successor was not an employer at the time of the transfer, then the experience rating account of the acquired business must not be transferred and, instead, the sum of the rate determined by the commissioner under RCW 50.29.025(1)(d) and 50.29.041, if applicable, shall be assigned.

(2) If any part of a delinquency for which an assessment is made under this title is due to an intent to knowingly evade the successorship provisions of RCW 50.29.062 and this section, then with respect to the employer, and to any business found to be knowingly promoting the evasion of such provisions:

(a) The commissioner shall, for the rate year in which the commissioner makes the determination under this subsection and for each of the three consecutive rate years following that rate year, assign to the employer or business the total rate, which is the sum of the recalculated array calculation factor rate and a civil penalty assessment rate, calculated as follows:

(i) Recalculate the array calculation factor rate as the array calculation factor rate that should have applied to the employer or business under RCW 50.29.025 and 50.29.062; and

(ii) Calculate a civil penalty assessment rate in an amount that, when added to the array calculation factor rate determined under (a)(i) of this subsection for the applicable rate year, results in a total rate equal to the maximum array calculation factor rate under RCW 50.29.025 plus two percent, which total rate is not limited by any maximum array calculation factor rate established in RCW 50.29.025(1)(b)(ii);

(b) The employer or business may be prosecuted under the penalties prescribed in RCW 50.36.020; and

(c) The employer or business must pay for the employment security department's reasonable expenses of auditing the employer's or business's books and collecting the civil penalty assessment.

(3) If the person knowingly evading the successorship provisions, or knowingly attempting to evade these provisions, or knowingly promoting the evasion of these provisions, is not an employer, the person is subject to a civil penalty assessment of five thousand dollars per occurrence. In addition, the person is subject to the penalties prescribed in RCW 50.36.020 as if the person were an employer. The person must also pay for the employment security department's reasonable expenses of auditing his or her books and collecting the civil penalty assessment.

(4) For purposes of this section:

(a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved and includes, but is not limited to, intent to evade, misrepresentation, or willful nondisclosure.

(b) "Person" means and includes an individual, a trust, estate, partnership, association, company, or corporation.

(c) "Transfer of a business" includes the transfer or acquisition of substantially all or a portion of the operating assets, which may include the employer's workforce.

(5) Any decision to assess a penalty under this section shall be made by the chief administrative officer of the tax branch or his or her designee.

(6) Nothing in this section shall be construed to deny an employer the right to appeal the assessment of a penalty in the manner provided in RCW 50.32.030.

(7) The commissioner shall engage in prevention, detection, and collection activities related to evasion of the successorship provisions of RCW 50.29.062 and this section, and establish procedures to enforce this section. [2021 c 2 § 21; 2010 c 25 § 3; 2009 c 225 § 2; 2007 c 327 § 3; 2006 c 47 § 1.]

**Intent—Conflict with federal requirements—Effective date—2021 c 2:** See notes following RCW 50.04.323.

**Conflict with federal requirements—2010 c 25:** See note following RCW 50.29.021.

**Conflict with federal requirements—2009 c 225:** See note following RCW 50.29.062.

~~Severability—Conflict with federal requirements—Effective date—~~  
**2007 c 327:** See notes following RCW 50.24.014.

~~Conflict with federal requirements—Severability—Effective date—~~  
**Retroactive application—2006 c 47:** See notes following RCW 50.29.062.

**RCW 50.29.064 Rules to implement 2006 c 47.** The commissioner of the employment security department may adopt rules necessary to implement chapter 47, Laws of 2006. [2006 c 47 § 4.]

~~Conflict with federal requirements—Severability—Effective date—~~  
**Retroactive application—2006 c 47:** See notes following RCW 50.29.062.

**RCW 50.29.065 Notice of benefits paid and charged to employer's account.** Within thirty days after the end of every calendar quarter, the commissioner shall notify each employer of the benefits received during that quarter by each claimant for whom he or she is the base year employer and the amount of those benefits charged to his or her experience rating account. [1984 c 205 § 10.]

~~Conflict with federal requirements—Severability—Effective dates~~  
**—1984 c 205:** See notes following RCW 50.20.120.

**RCW 50.29.070 Notice of employer benefit charges and rate of contribution—Review and appeal.** (1) Within a reasonable time after the computation date each employer shall be notified of the employer's rate of contribution as determined for the succeeding rate year and factors used in the calculation. Beginning with rate year 2005, the notice must include the amount of the contribution rate that is attributable to each component of the rate under RCW 50.29.025(1).

(2) Any employer dissatisfied with the benefit charges made to the employer's account for the twelve-month period immediately preceding the computation date or with his or her determined rate may file a request for review and redetermination with the commissioner within thirty days of the mailing of the notice to the employer, showing the reason for such request. Should such request for review and redetermination be denied, the employer may, within thirty days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this section. [2022 c 61 § 2; 2022 c 17 § 2; 2003 2nd sp.s. c 4 § 19; 1990 c 245 § 8; 1983 1st ex.s. c 23 § 19; 1973 1st ex.s. c 158 § 14; 1970 ex.s. c 2 § 16.]

**Reviser's note:** This section was amended by 2022 c 17 § 2 and by 2022 c 61 § 2, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

**Effective date—2022 c 61:** See note following RCW 50.29.025.

**Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4:** See notes following RCW 50.01.010.

**Conflict with federal requirements—Effective dates—1990 c 245:** See notes following RCW 50.04.030.

**Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23:** See notes following RCW 50.04.073.

**Effective date—1973 1st ex.s. c 158:** See note following RCW 50.08.020.

**Effective date—1970 ex.s. c 2:** See note following RCW 50.04.020.

*Appeal on denial of refund: RCW 50.32.030, 50.32.050.*

*Appeal to the courts: RCW 50.32.120.*

*Review by commissioner: RCW 50.32.070.*

**RCW 50.29.080 Redetermination and correction of employer's contribution rate.** The commissioner may redetermine any contribution rate if, within three years of the rate computation date he or she finds that the rate as originally computed was erroneous.

In the event that the redetermined rate is lower than that originally computed the difference between the amount paid and the amount which should have been paid on the employer's taxable payroll for the rate year involved shall be established as a credit against his or her tax liability; however, if the redetermined rate is higher than that originally computed the difference between the amount paid and the amount which should have been paid on the employer's taxable payroll shall be assessed against the employer as contributions owing for the rate year involved.

The redetermination of an employer's contribution rate shall not affect the contribution rates which have been established for any other employer nor shall such redetermination affect any other computation made pursuant to this title.

The employer shall have the same rights to request review and redetermination as he or she had from his or her original rate determination. [2010 c 8 § 13035; 1970 ex.s. c 2 § 17.]

**Effective date—1970 ex.s. c 2:** See note following RCW 50.04.020.

**RCW 50.29.090 Contribution rates for client employers.** For purposes of this title, each client employer of a professional employer organization is assigned its individual contribution rate based on its own experience. [2007 c 146 § 10.]

**Report on implementation and impact—2007 c 146 §§ 8-12:** See note following RCW 50.04.298.

**Effective date—2007 c 146 §§ 5, 6, and 10-12:** See note following RCW 50.04.310.



**Conflict with federal requirements—Severability—2007 c 146:** See notes following RCW 50.04.080.

**RCW 50.29.105 Department-approved deferred payment contracts—Department determination of eligibility—Notice.** (1) By September 1st of each year, the department must determine which employers have not paid all contributions, penalties, or interest due, and have not entered into a department-approved deferred payment contract, as of that date.

(2) By September 1st of each year, for each employer meeting the criteria in subsection (1) of this section, the department must notify the employer of the availability of deferred payment contracts with the department. The department must provide technical, and culturally and linguistically relevant, assistance as needed to the employer in navigating the process for entering into a department-approved payment contract. [2021 c 292 § 10.]

**Reviser's note:** RCW 1.04.010 directs that the Revised Code of Washington contain "all the laws of the state of a general and permanent nature." Sections 2-9, chapter 292, Laws of 2021 contained codification directives, however, those sections were of a temporary nature and were not codified.

**Findings—Intent—2021 c 292:** "(1) The legislature finds that certain businesses in Washington have experienced significant and unanticipated impacts during the COVID-19 pandemic. The legislature intends to preemptively minimize the disproportionate impact COVID-19 economic closures have had on these businesses.

(2) Small businesses in particular have fewer reserves and fewer resources to rely upon in periods of downturn. Those businesses owned by historically disadvantaged groups, such as women, minority populations, and immigrants, often experience disproportionately more distress and burden due to the economic impacts of the COVID-19 pandemic compared to their counterparts across the remaining business community. These businesses are absolutely critical to the success of Washington's continued high ratings, number one gross domestic product, and are part of the backbone of Washington's diverse and resilient economy.

(3) The legislature finds that ESSB 5061, passed by the legislature and signed by the governor earlier in the 2021 session, mitigated immediate impacts to employers through caps on the social tax, suspension of the solvency surcharge, and relief of certain benefit charges.

(4) The legislature now intends to address the disproportionate impacts on small and other significantly impacted businesses beyond the limited time period addressed in ESSB 5061. The legislature intends to provide this targeted relief through the one-time application of funds, in order to provide critical support for many of the businesses that are essential to Washington's recovery and ongoing economic vitality, while maintaining a healthy unemployment insurance trust fund for Washington's workers." [2021 c 292 § 1.]

**Conflict with federal requirements—2021 c 292:** "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment

tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2021 c 292 § 11.]

**Effective date—2021 c 292:** "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 12, 2021]." [2021 c 292 § 12.]