

SENATE BILL REPORT

SB 5135

As Passed Senate, February 4, 2011

Title: An act relating to responding to the current economic conditions by temporarily modifying the unemployment insurance program.

Brief Description: Responding to the current economic conditions by temporarily modifying the unemployment insurance program.

Sponsors: Senators Kohl-Welles, Holmquist Newbry, King, Honeyford, Schoesler, Becker, Hobbs, Rockefeller, Baumgartner, Hill, Litzow and Benton; by request of Governor Gregoire.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/17/11, 1/31/11 [DPS].
Passed Senate: 2/04/11, 46-1.

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5135 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Conway, Vice Chair; Holmquist Newbry, Ranking Minority Member; King, Assistant Ranking Minority Member; Hewitt, Keiser and Kline.

Staff: Mac Nicholson (786-7445)

Background: Unemployment Insurance Taxes. The total amount of unemployment insurance (UI) contributions or taxes paid by an employer includes an experience rated tax and a social tax. The experience rated tax is determined based on an employer's layoff experience and falls into one of 40 rate classes. The social tax component covers social costs, or costs resulting from the payment of benefits to an individual that are not charged to a specific employer. The social tax is calculated using the flat social cost factor, which is graduated for each employer based on the employer's rate class. Employers in rate class 1 have no layoff experience and only pay a social tax, which was 0.95 percent in 2010 and is 1.33 percent in 2011. The total tax rate is capped at 6 percent, and in 2010 employers in rate classes 35 through 40 capped out. In 2011 employers in rate classes 32 through 40 will cap out.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Extended Benefits Program. An individual who has exhausted his or her regular unemployment benefits and emergency unemployment compensation benefits can receive up to 20 additional weeks of benefits under the extended benefits program. The extended benefits program triggers on during periods of high unemployment when unemployment rates hit certain levels as compared to rates in a two-year look back period. The first 13 weeks of extended benefits trigger on when the unemployment rate averages at least 6.5 percent over the last three months and is at least 10 percent higher than the same three month average in either of the previous two years. The remaining seven weeks of extended benefits trigger on when the unemployment rate averages at least 8 percent and is 10 percent higher than in either of the previous two years. Washington triggered on the first 13 weeks in February 2009 and the remaining seven weeks in May 2009. Extended benefits are expected to trigger off in the spring of 2011, as the two-year look back will include unemployment rates from 2009 and 2010.

Extended benefit costs are generally shared equally by the state and federal government; however, the federal government has paid the full cost of extended benefits since Washington triggered on in 2009. The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 authorized the federal government to continue to pay the full cost of extended benefits through 2011, provided the extended benefits program doesn't trigger off. The federal legislation authorized states to use a three-year look back in 2011 rather than a two-year look back to prevent the extended benefits program from triggering off.

Eligibility Periods. For an individual who is in the training benefits program, training benefits are payable for up to two years beyond the end of the benefit year of the regular claim.

For an individual who is eligible for emergency unemployment compensation, the eligibility period for extended benefits is defined as the period consisting of the week ending February 28, 2009, through the week ending May 29, 2010.

Summary of Bill: Unemployment Insurance Taxes. For rate year 2011, the flat social cost factor is capped at 1.22 percent, and the graduated rate is lowered for employers in rate classes 1 through 20 (from 78 percent through 120 percent to 40 percent through 116 percent). Consequently, the total 2011 UI tax rate for employers in rate classes 1 through 34 will be lowered, and employers in rate classes 35 through 40 will cap out at 6 percent.

Extended Benefits Program. For 2011 the two-year look-back period used to determine whether extended benefits are paid is changed to a three-year look-back period.

Eligibility Periods. The period during which training benefits are payable is extended. For individuals who are eligible for extended benefits because of the three-year look-back period, training benefits are payable for up to three years beyond the end of the benefit year of the regular claim.

The eligibility period for extended benefits is also extended through 2011. The eligibility period consists of the week ending February 28, 2009, and applies as provided under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010,

as it existed on December 17, 2010, or a subsequent date provided by the Employment Security Department by rule.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Original Bill: PRO: This bill is a part of the Governor's job creation package. Job creation will pull the state out of the recession and help build a bright economic future for Washington. The state has a healthy UI trust fund which can be used to help businesses create jobs and help unemployed workers get retraining. The average UI rate increase for 2011 is 36 percent. Tax notices have been sent and first quarter taxes are due April 1. Enactment of this legislation by February 8 will save businesses about \$300 million in 2011. The legislation will allow Employment Security Department (ESD) to continue paying extended benefits through the end of the year. Extended benefits are expected to trigger off in the spring, and if legislation is passed after they trigger off, federal law bars trigger back on for a minimum of 13 weeks. Without this legislation, 35,000 individuals would lose benefits in the spring and another 34,000 would be unable to access benefits. Adjusting tax rates will help avoid significant tax increases. The business community didn't ask for this legislation but appreciates the Governor's effort. The adjustment in this legislation is something that should have been made even without the current economic environment. This legislation fine tunes the trust fund to 14 months of benefits. Business is concerned that the tax cut will come at a high cost. More than 75 percent of employers will see a benefit from this legislation. Employers are struggling, and businesses can hire more employees with the UI savings in this bill. New costs should not be added to the system.

CON: The extension of federally funded benefits in the legislation is a good idea, but a more balanced approach should be pursued. This tax cut should be coupled with real relief for unemployed individuals in the state. As an alternative, a child's benefit should be provided. The Governor's proposal isn't the best path. An increase in unemployment benefits would make a great difference for unemployed individuals. Families disrupted by unemployment can't provide children with basic needs and a dependent benefit would provide immediate help. Any discussion about tax relief must recognize that employees are also hurting.

Persons Testifying: PRO: Peter Bodgonoff, Governor's Office; Paul Trause, ESD; Nancy Hitshue, Washington Roundtable; Bruce Beckett, Washington Restaurant Association; Van Collins, Associated General Contractors; Donna Steward, Association of Washington Business; Judy Coovert, Printcom; Lisa Harris, True Blue; Carolyn Logue, Washington Food Industry; Scott Dilley, Washington Farm Bureau; Patrick Connor, National Federation of Independent Business; Craig Gresham, Bresham Drilling; George Madsen, Madsen Roofing; Gary Smith, Independent Business Association.

CON: Rebecca Johnson, Washington State Labor Council; Josh Fogt, Northwest Harvest; Deanna Potter; Randy Mhaerick; Wendy Rader-Konofalski, Washington Education Association; Tony Lee, Solid Ground; Dave Johnson, Washington State Building and Construction Trades Council; Sarah Cherin, UFCW Local 21; James Mahn, Laborers 242; Marsha Milroy; Toby Guerin, One America; Nicole Grant, Certified Electrical Workers of Washington; Larry Brown, IAM 751; Greg McClure, 612 Operating Engineers; Bob Guenther, IBEW; Sean O'Sullivan, AWPPW; Cody Arledge, Sheet Metal Workers Local 66; Don DeMulling, Ironworkers; Michael Swart, Chris Hanson, Eduardo Stoaks, Ironworkers Local 86.