

SENATE BILL REPORT

EHB 2255

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, April 6, 2005

Title: An act relating to making adjustments to improve benefit equity in the unemployment insurance system.

Brief Description: Making adjustments to improve benefit equity in the unemployment insurance system.

Sponsors: Representatives Conway, Simpson and Wood.

Brief History: Passed House: 4/01/05, 56-41.

Committee Activity: Labor, Commerce, Research & Development: 4/5/05, 4/6/05 [DP, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.

Signed by Senators Parlette, Ranking Minority Member; Hewitt and Honeyford.

Staff: Jennifer Strus (786-7316)

Background: The unemployment insurance system is a federal/state program under which employers pay contributions to fund unemployment compensation for unemployed workers. These payments are made under state unemployment laws and the Federal Unemployment Tax Act (FUTA). The FUTA allows the states' employers to receive a tax credit against their federal unemployment tax. The state receives a share of the federal FUTA revenues for administration of its unemployment insurance system, but only if the state maintains an unemployment insurance system in conformity with federal law. Washington's program is administered by the Employment Security Department.

In 2003, the Legislature enacted a number of changes to the unemployment insurance system. The changes included revisions to unemployment benefits and the tax system.

Unemployment Benefits. Before January of 2004, a claimant's weekly benefit amount (WBA) was 4 percent of the claimant's average wages in the two quarters of the base year in which wages were highest. The 2003 legislation established new methods of calculating the WBA for claims with specified effective dates.

On or after January 4, 2004, and before January 2, 2005, the WBA was calculated using 4 percent of the claimant's average wages in the three quarters of the base year in which wages

were highest. On or after January 2, 2005, the WBA is 1 percent of the claimant's total wages in the base year.

The 2003 legislation also repealed a requirement for the unemployment insurance system to be "liberally construed."

Unemployment Taxes. The 2003 legislation created a new unemployment tax system. Beginning with rate year 2005, the unemployment insurance contribution rate for most covered employers is determined by the combined array calculation factor rate and the social cost factor rate, subject to a maximum rate, and solvency surcharge, if any. These rates are determined as follows:

Array calculation factor. Employers are placed in one of 40 rate classes, with rates from 0 percent to 5.4 percent. The assigned rate class depends on the employer's layoff experience.

Social cost factor. A flat social cost rate is calculated as the difference between benefits paid and taxes paid (for the system as a whole), divided by total taxable payroll (for the system as a whole). The amount is then adjusted for the months of benefits in the trust fund above 10 months, but the rate may not be less than 0.6 percent. Employers pay a graduated social cost factor rate, ranging from 78 percent to 120 percent of the flat rate, depending on the employer's rate class.

Maximum rate for the sum of the array calculation factor and the social cost factor. For employers in fishing, agriculture, and food and seafood processing, the maximum rate is 6 percent. For employers in all other industries, the maximum rate is 6.5 percent.

Solvency surcharge. Up to an additional 0.2 percent surcharge is added to the contribution rate in the next rate year if the unemployment trust fund has fewer than 6 months of benefits on a specified annual date.

Federal Unemployment Funds. The FUTA tax paid by employers is held in the federal unemployment trust fund. These funds are deposited into two accounts that are used to pay the states' unemployment insurance systems' administrative costs and to pay extended unemployment benefits. By federal statute, these accounts may not exceed a specified monetary limit. If the limit is exceeded, the Congress may appropriate excess funds to the states under the Reed Act. In the federal Temporary Extended Unemployment Compensation Act of 2002, the Congress authorized a distribution of federal Reed Act funds to the states. Washington received approximately \$167 million. Of that amount, approximately \$130 million remains unappropriated. Reed Act funds may be used only for the limited purposes specified in federal law, which include the payment of unemployment benefits and the administration of the unemployment system.

Summary of Bill: The Legislature finds that the unemployment insurance system is falling short of its goals, and that the Legislature intends to adjust the balance between the goal of reducing the impacts of involuntary unemployment on workers and the desirability of reducing costs by making adjustments that allow reasonable improvements in benefit equity.

The requirement that the unemployment insurance system be "liberally construed" when interpreting the system is restored until June 30, 2007.

For claims with effective dates on or after the first Sunday after the Governor signs the bill, and before July 1, 2007, the claimant's WBA is calculated using 3.85 percent of the claimant's average wages in the two quarters in the base year in which wages were highest.

For fiscal years 2006 and 2007, the social cost factor rate is zero for employers in agricultural crops, livestock, agricultural services, food and seafood processing, and cold storage.

For tax rate year 2007, the flat social cost factor is the lesser of the rate applicable with the new WBA calculations in effect or the rate that would have been applicable if the WBA had been calculated as 1 percent of a claimant's annual wages.

The formula is adjusted for determining the social cost factor in rate year 2007 to account for benefits that are not effectively charged because of these changes in the social cost factor.

When paying unemployment benefits, beginning in fiscal year 2006 and through calendar year 2007, funds are first requisitioned from the Reed Act funds in the amount of the benefits that are not effectively charged because the social cost factor rate is reduced to zero for certain industries and/or the applicable social cost factor rate is the rate under the prior law calculation.

The Joint Legislative Task Force on Unemployment Insurance Benefit Equity is established with four business representatives, four labor representatives, and the chairs and ranking minority members of the Senate Labor, Commerce, Research & Development Committee, and the House Commerce & Labor Committee. The Task Force must review the unemployment insurance system, including whether the benefit structure is equitable, whether the structure fairly accounts for changes in workforce and industry work patterns, including seasonality, and claimant work patterns, whether the tax structure equitably distributes taxes, and whether the trust fund is adequate in the long-term. The Task Force must report to the Legislature by January 1, 2006.

The Employment Security Department is required to report to the Legislature annually for two years, beginning October 1, 2006, on the impact of the bill's provisions on the unemployment trust fund. The Employment Security Department is authorized to add two additional full-time equivalent employees to establish additional capacity in the Department to develop economic models for estimating the impacts of policy changes on the unemployment insurance system and the unemployment trust fund.

Appropriation: None.

Fiscal Note: Available for previous version of bill. Fiscal note for Engrossed version of the bill was requested on April 4, 2005.

Committee/Commission/Task Force Created: Yes.

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

Testimony For: The unemployment insurance (UI) reform bill (6097) passed in 2003 created hardships to seasonal workers, particularly in the agricultural and construction trades. The bill would provide some relief to seasonal workers during the next two years while a permanent solution is worked on. The bill would continue to keep costs for business down. 6097 hurts workers and their families. Only six other states have four quarter averaging. Workers lost \$51

million in benefits when the system moved to three quarter averaging; the state lost \$110 million in purchasing power. Workers will lose \$109 million in benefits under the current four quarter averaging system; the state economy will lose \$234 million in purchasing power. Thousands of workers in the construction, agricultural and food sectors are losing between \$100 and \$200 a week in benefits. If this bill passes, there will still be a \$285 million savings to businesses. This bill presents only a partial rollback of some of the changes made in 2003. EHB 2255 is not intended to be a long term fix; it is intended to increase the weekly benefit amount to seasonal workers for a short time while a longer term solution can be worked out.

Testimony Against: The legislature should continue the implementation of the reforms passed in 2003 to see the impact on the system before changes are made to those reforms. Washington business costs are some of the highest in the nation and this bill will add to those costs. As a result Washington businesses are likely to look to move elsewhere because it is less expensive. This bill would return the system to having certain industries support through socialized costs the increased costs experienced by other industries; one of the major intents of 6097 was to end this practice. Agricultural employers will not be able to pass along the increased costs to the consumer the way other employers can. They would rather get the policy correct than have the exemption currently in the bill for the agriculture industry. To afford the changes proposed in the bill, employers will pay more taxes or the state will use one-time-only Reed Act monies to pay for the bow wave caused by the bill. Reforms passed by the legislature in 2003 benefitted small businesses; this partial rollback of those reforms will substantially hurt small businesses. This bill is not revenue neutral nor is it a balanced rollback of the 2003 UI reforms. This bill should hold employers harmless for the two years during which the bill's content is in effective. The bill will increase net benefit costs by \$85 million, will increase net taxes by \$88 million and distorts employer experience ratings for four years after the bill sunsets.

Who Testified: PRO: Representative Steve Conway, prime sponsor; Linda Lanham, Machinist's Union; Bab Watt, Vice-President of Community and Government Relations, Boeing; Rick Bender, Washington State Labor Council(WSLC); Michael Heins, International Brotherhood of Electrical Workers (IBEW); Dave Johnson, Building Trades; Wendy Rader-Konofalski, American Federation of Teachers; Bob Abbott, Northwest District Laborers' Council; Rob Anderson, IBEW, Local 46; Eric Nicholson; Elizabeth Shedd, Operating Engineers; Tracy Prezeau, IBEW No. 76; Jeff Johnson, WSLC; Pam Crone, Northwest Women's Law Center.

OTHER: Annette Copeland, Employment Security Department; Bob Wagner, Employment Security Department.

CON: Don Brunell, Association of Washington Business; Steve Mullin, Washington Roundtable; Anthony Anton, Washington Restaurant Association; Bruce Beckett, Weyerhaeuser; Pat Batts, Washington Farm Bureau; Ed Hildreth, Washington Retail Association; Rick Slunaker, Associated General Council; Carolyn Logue, National Federation of Independent Businesses; Clif Finch, Washington Food Industry; Ed Owens, Coalition of Coastal Fisheries.

Signed in, Unable to Testify & Submitted Written Testimony: PRO: Randall Covey, Union Boilermaker, Local 502.

CON: Larry Stevens, Mechanical and Electrical Contractors.