
SUBSTITUTE SENATE BILL 5137

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Labor, Commerce, Research & Development
(originally sponsored by Senators Kohl-Welles and Keiser; by request
of Governor Gregoire)

READ FIRST TIME 02/05/07.

1 AN ACT Relating to revising the industry average unemployment
2 contribution rates; amending RCW 50.29.025; and creating new sections.

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

4 **Sec. 1.** RCW 50.29.025 and 2006 c 13 s 4 are each amended to read
5 as follows:

6 (1) Except as provided in subsection (2) of this section, the
7 contribution rate for each employer subject to contributions under RCW
8 50.24.010 shall be determined under this subsection.

9 (a) A fund balance ratio shall be determined by dividing the
10 balance in the unemployment compensation fund as of the September 30th
11 immediately preceding the rate year by the total remuneration paid by
12 all employers subject to contributions during the second calendar year
13 preceding the rate year and reported to the department by the following
14 March 31st. The division shall be carried to the fourth decimal place
15 with the remaining fraction, if any, disregarded. The fund balance
16 ratio shall be expressed as a percentage.

17 (b) The interval of the fund balance ratio, expressed as a
18 percentage, shall determine which tax schedule in (e) of this

1 subsection shall be in effect for assigning tax rates for the rate
2 year. The intervals for determining the effective tax schedule shall
3 be:

4	Interval of the	
5	Fund Balance Ratio	Effective
6	Expressed as a Percentage	Tax Schedule
7	2.90 and above	AA
8	2.10 to 2.89	A
9	1.70 to 2.09	B
10	1.40 to 1.69	C
11	1.00 to 1.39	D
12	0.70 to 0.99	E
13	Less than 0.70	F

14 (c) An array shall be prepared, listing all qualified employers in
15 ascending order of their benefit ratios. The array shall show for each
16 qualified employer: (i) Identification number; (ii) benefit ratio;
17 (iii) taxable payrolls for the four calendar quarters immediately
18 preceding the computation date and reported to the department by the
19 cut-off date; (iv) a cumulative total of taxable payrolls consisting of
20 the employer's taxable payroll plus the taxable payrolls of all other
21 employers preceding him or her in the array; and (v) the percentage
22 equivalent of the cumulative total of taxable payrolls.

23 (d) Each employer in the array shall be assigned to one of twenty
24 rate classes according to the percentage intervals of cumulative
25 taxable payrolls set forth in (e) of this subsection: PROVIDED, That
26 if an employer's taxable payroll falls within two or more rate classes,
27 the employer and any other employer with the same benefit ratio shall
28 be assigned to the lowest rate class which includes any portion of the
29 employer's taxable payroll.

30 (e) Except as provided in RCW 50.29.026, the contribution rate for
31 each employer in the array shall be the rate specified in the following
32 tables for the rate class to which he or she has been assigned, as
33 determined under (d) of this subsection, within the tax schedule which
34 is to be in effect during the rate year:

		Percent of Cumulative Schedules of Contributions Rates Taxable Payrolls for Effective Tax Schedule									
		Rate									
From	To Class	AA	A	B	C	D	E	F			
0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47		
5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67		
10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87		
15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98		
20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08		
25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18		
30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27		
35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47		
40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66		
45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86		
50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95		
55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15		
60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34		
65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54		
70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63		
75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73		
80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97		
85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17		
90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37		
95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40		

27 (f) The contribution rate for each employer not qualified to be in
28 the array shall be as follows:

29 (i) Employers who do not meet the definition of "qualified
30 employer" by reason of failure to pay contributions when due shall be
31 assigned a contribution rate two-tenths higher than that in rate class
32 20 for the applicable rate year, except employers who have an approved
33 agency-deferred payment contract by September 30 of the previous rate
34 year. If any employer with an approved agency-deferred payment
35 contract fails to make any one of the succeeding deferred payments or
36 fails to submit any succeeding tax report and payment in a timely
37 manner, the employer's tax rate shall immediately revert to a
38 contribution rate two-tenths higher than that in rate class 20 for the
39 applicable rate year; and

1 (ii) For all other employers not qualified to be in the array, the
2 contribution rate shall be a rate equal to the average industry rate as
3 determined by the commissioner; however, the rate may not be less than
4 one percent.

5 (2) Beginning with contributions assessed for rate year 2005, the
6 contribution rate for each employer subject to contributions under RCW
7 50.24.010 shall be the sum of the array calculation factor rate and the
8 graduated social cost factor rate determined under this subsection, and
9 the solvency surcharge determined under RCW 50.29.041, if any.

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

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

18 (ii) Each employer in the array shall be assigned to one of forty
19 rate classes according to his or her benefit ratio as follows, and,
20 except as provided in RCW 50.29.026, the array calculation factor rate
21 for each employer in the array shall be the rate specified in the rate
22 class to which the employer has been assigned:

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45

1	0.013750	0.015000	13	1.60
2	0.015000	0.016250	14	1.75
3	0.016250	0.017500	15	1.90
4	0.017500	0.018750	16	2.05
5	0.018750	0.020000	17	2.20
6	0.020000	0.021250	18	2.35
7	0.021250	0.022500	19	2.50
8	0.022500	0.023750	20	2.65
9	0.023750	0.025000	21	2.80
10	0.025000	0.026250	22	2.95
11	0.026250	0.027500	23	3.10
12	0.027500	0.028750	24	3.25
13	0.028750	0.030000	25	3.40
14	0.030000	0.031250	26	3.55
15	0.031250	0.032500	27	3.70
16	0.032500	0.033750	28	3.85
17	0.033750	0.035000	29	4.00
18	0.035000	0.036250	30	4.15
19	0.036250	0.037500	31	4.30
20	0.037500	0.040000	32	4.45
21	0.040000	0.042500	33	4.60
22	0.042500	0.045000	34	4.75
23	0.045000	0.047500	35	4.90
24	0.047500	0.050000	36	5.05
25	0.050000	0.052500	37	5.20
26	0.052500	0.055000	38	5.30
27	0.055000	0.057500	39	5.35
28	0.057500		40	5.40

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

31 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
32 the commissioner shall calculate the flat social cost factor for a rate
33 year by dividing the total social cost by the total taxable payroll.
34 The division shall be carried to the second decimal place with the
35 remaining fraction disregarded unless it amounts to five hundredths or
36 more, in which case the second decimal place shall be rounded to the
37 next higher digit. The flat social cost factor shall be expressed as
38 a percentage.

1 (B) If, on the cut-off date, the balance in the unemployment
2 compensation fund is determined by the commissioner to be an amount
3 that will provide more than ten months of unemployment benefits, the
4 commissioner shall calculate the flat social cost factor for the rate
5 year immediately following the cut-off date by reducing the total
6 social cost by the dollar amount that represents the number of months
7 for which the balance in the unemployment compensation fund on the cut-
8 off date will provide benefits above ten months and dividing the result
9 by the total taxable payroll. However, the calculation under this
10 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
11 cost factor that is more than four-tenths lower than the calculation
12 under (b)(i)(A) of this subsection for that rate year.

13 For the purposes of this subsection, the commissioner shall
14 determine the number of months of unemployment benefits in the
15 unemployment compensation fund using the benefit cost rate for the
16 average of the three highest calendar benefit cost rates in the twenty
17 consecutive completed calendar years immediately preceding the cut-off
18 date or a period of consecutive calendar years immediately preceding
19 the cut-off date that includes three recessions, if longer.

20 (C) The minimum flat social cost factor calculated under this
21 subsection (2)(b) shall be six-tenths of one percent, except that if
22 the balance in the unemployment compensation fund is determined by the
23 commissioner to be an amount that will provide:

24 (I) At least twelve months but less than fourteen months of
25 unemployment benefits, the minimum shall be five-tenths of one percent;
26 or

27 (II) At least fourteen months of unemployment benefits, the minimum
28 shall be five-tenths of one percent, except that, for employers in rate
29 class 1, the minimum shall be forty-five hundredths of one percent.

30 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
31 graduated social cost factor rate for each employer in the array is the
32 flat social cost factor multiplied by the percentage specified as
33 follows for the rate class to which the employer has been assigned in
34 (a)(ii) of this subsection, except that the sum of an employer's array
35 calculation factor rate and the graduated social cost factor rate may
36 not exceed six and five-tenths percent or, for employers whose North
37 American industry classification system code is within "111," "112,"

1 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six
2 percent through rate year 2007 and may not exceed five and seven-tenths
3 percent for rate year 2008 and thereafter:

4 (I) Rate class 1 - 78 percent;

5 (II) Rate class 2 - 82 percent;

6 (III) Rate class 3 - 86 percent;

7 (IV) Rate class 4 - 90 percent;

8 (V) Rate class 5 - 94 percent;

9 (VI) Rate class 6 - 98 percent;

10 (VII) Rate class 7 - 102 percent;

11 (VIII) Rate class 8 - 106 percent;

12 (IX) Rate class 9 - 110 percent;

13 (X) Rate class 10 - 114 percent;

14 (XI) Rate class 11 - 118 percent; and

15 (XII) Rate classes 12 through 40 - 120 percent.

16 (B) For contributions assessed beginning July 1, 2005, through
17 December 31, 2007, for employers whose North American industry
18 classification system code is "111," "112," "1141," "115," "3114,"
19 "3117," "42448," or "49312," the graduated social cost factor rate is
20 zero.

21 (iii) For the purposes of this section:

22 (A) "Total social cost" means the amount calculated by subtracting
23 the array calculation factor contributions paid by all employers with
24 respect to the four consecutive calendar quarters immediately preceding
25 the computation date and paid to the employment security department by
26 the cut-off date from the total unemployment benefits paid to claimants
27 in the same four consecutive calendar quarters. To calculate the flat
28 social cost factor for rate year 2005, the commissioner shall calculate
29 the total social cost using the array calculation factor contributions
30 that would have been required to be paid by all employers in the
31 calculation period if (a) of this subsection had been in effect for the
32 relevant period.

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

1 (c) ~~((The array calculation factor rate for each employer not~~
2 ~~qualified to be in the array shall be as follows:~~

3 ~~(i)) For employers who do not meet the definition of "qualified~~
4 ~~employer" by reason of failure to pay contributions when due ((shall be~~
5 ~~assigned an)):~~

6 (i) The array calculation factor rate shall be two-tenths higher
7 than that in rate class 40, except employers who have an approved
8 agency-deferred payment contract by September 30th of the previous rate
9 year. If any employer with an approved agency-deferred payment
10 contract fails to make any one of the succeeding deferred payments or
11 fails to submit any succeeding tax report and payment in a timely
12 manner, the employer's tax rate shall immediately revert to an array
13 calculation factor rate two-tenths higher than that in rate class 40;
14 and

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

17 (d) For all other employers not qualified to be in the array((7)):

18 (i) For rate years 2005, 2006, and 2007:

19 (A) The array calculation factor rate shall be a rate equal to the
20 average industry array calculation factor rate as determined by the
21 commissioner, plus fifteen percent of that amount; however, the rate
22 may not be less than one percent or more than the array calculation
23 factor rate in rate class 40((-

24 ~~(d) The graduated social cost factor rate for each employer not~~
25 ~~qualified to be in the array shall be as follows:~~

26 ~~(i) For employers whose array calculation factor rate is determined~~
27 ~~under (c)(i) of this subsection, the social cost factor rate shall be~~
28 ~~the social cost factor rate assigned to rate class 40 under (b)(ii) of~~
29 ~~this subsection.~~

30 ~~(ii) For employers whose array calculation factor rate is~~
31 ~~determined under (c)(ii) of this subsection,); and~~

32 (B) The social cost factor rate shall be a rate equal to the
33 average industry social cost factor rate as determined by the
34 commissioner, plus fifteen percent of that amount, but not more than
35 the social cost factor rate assigned to rate class 40 under (b)(ii) of
36 this subsection.

37 (ii) Beginning with contributions assessed for rate year 2008:

1 (A) The array calculation factor rate shall be a rate equal to the
2 average industry array calculation factor rate as determined by the
3 commissioner, multiplied by the history factor, but not less than one
4 percent or more than the array calculation factor rate in rate class
5 40;

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

11 (C) The history factor shall be based on the total amounts of
12 benefits charged and contributions paid in the three fiscal years
13 ending prior to the computation date by employers not qualified to be
14 in the array, other than employers in (c) of this subsection, who were
15 first subject to contributions in the calendar year ending three years
16 prior to the computation date. The commissioner shall calculate the
17 history ratio by dividing the total amount of benefits charged by the
18 total amount of contributions paid in this three-year period by these
19 employers. The division shall be carried to the second decimal place
20 with the remaining fraction disregarded unless it amounts to five
21 one-hundredths or more, in which case the second decimal place shall be
22 rounded to the next higher digit. The commissioner shall determine the
23 history factor according to the history ratio as follows:

	<u>History</u>		<u>History</u>
	<u>Ratio</u>		<u>Factor</u>
			<u>(percent)</u>
	<u>At least</u>	<u>Less than</u>	
28	<u>(I)</u>	<u>.95</u>	<u>90</u>
29	<u>(II)</u>	<u>.95</u>	<u>100</u>
30	<u>(III)</u>	<u>1.05</u>	<u>115</u>

31 (3) Assignment of employers by the commissioner to industrial
32 classification, for purposes of this section, shall be in accordance
33 with established classification practices found in the "Standard
34 Industrial Classification Manual" issued by the federal office of

1 management and budget to the third digit provided in the standard
2 industrial classification code, or in the North American industry
3 classification system code.

4 NEW SECTION. **Sec. 2.** If any part of this act is found to be in
5 conflict with federal requirements that are a prescribed condition to
6 the allocation of federal funds to the state or the eligibility of
7 employers in this state for federal unemployment tax credits, the
8 conflicting part of this act is inoperative solely to the extent of the
9 conflict, and the finding or determination does not affect the
10 operation of the remainder of this act. Rules adopted under this act
11 must meet federal requirements that are a necessary condition to the
12 receipt of federal funds by the state or the granting of federal
13 unemployment tax credits to employers in this state.

14 NEW SECTION. **Sec. 3.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 4.** This act applies for rate years beginning on
19 or after January 1, 2008.

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