

HOUSE BILL REPORT

EHB 2901

As Passed Legislature

Title: An act relating to unemployment insurance.

Brief Description: Regarding unemployment insurance.

Sponsors: By Representatives Conway, Clements, Reardon, Berkey, Kenney, Santos, Lovick, Chase, Simpson, Wood and Sullivan.

Brief History:

Committee Activity:

Commerce & Labor: 2/7/02 [DP].

Floor Activity:

Passed House: 3/11/02, 65-31.

Senate Amended.

Passed Senate: 3/13/02, 35-14.

House Concurred.

Passed House: 3/14/02, 64-33.

Passed Legislature.

Brief Summary of Engrossed Bill

- Freezes the maximum weekly benefit amount at \$496 for two years, and then caps the growth rate in the maximum weekly benefit amount at 4 percent for six years.
- Makes various changes in the training benefits program, including making an additional \$34 million available to be obligated for training benefits for certain dislocated aerospace workers, and allowing them to receive up to 74 weeks of benefits.
- Makes various changes in the unemployment insurance tax system, including capping the 2004 rate schedule at no higher than Schedule C, and changing various unemployment tax rates, including rate increases beginning in 2003 and rate decreases beginning in 2005.
- Increases the maximum taxable wage base for unqualified employers and employers in rate classes 19 and 20.

- Adds an insolvency surcharge for 2003 and 2004 (unless triggered off), and beginning in 2005, an equity surcharge for employers with ineffective charges in three of the last four years.
- Creates a joint task force to study unemployment insurance issues.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 6 members: Representatives Conway, Chair; Wood, Vice Chair; Clements, Ranking Minority Member; Chandler, Kenney and Lysen.

Staff: Chris Cordes (786-7103); Jill Reinmuth (786-7134).

Background:

Unemployment Insurance Benefits

Regular Benefits. Regular benefits are benefits payable to an eligible unemployed worker.

An individual is eligible to receive regular benefits if he or she: (1) worked at least 680 hours in his or her base year; (2) was separated from employment through no fault of his or her own or quit work for good cause; and (3) is able to work and is actively searching for work.

Regular benefits are based on the individual's earnings in his or her base year; they are not based on financial need. The maximum weekly benefit amount equals 70% of the average weekly wage. As of July 1, 2001, the maximum amount is \$496. The maximum duration is 30 weeks (excluding weeks of training benefits).

Training Benefits. Training benefits are additional benefits payable to an eligible unemployed dislocated worker while he or she is in training.

An individual is eligible to receive training benefits if he or she: (1) is a dislocated worker; (2) worked in an occupation or with a particular skill set for at least three of the last five years; and (3) needs job-related training to find suitable employment in his or her labor market. Until July 1, 2002, however, aerospace, timber, and finfish workers are exempt from work history requirements. An individual may receive training benefits only once every five years.

The individual also must be enrolled in and making satisfactory progress in training approved by the department. The training must target skills in a high demand occupation and must include vocational training or courses needed as a prerequisite to that training.

The training may not include courses primarily intended for completion of a baccalaureate degree.

The maximum weekly benefit amount is the same for regular benefits and training benefits. As of July 1, 2001, the maximum amount is \$496. The maximum duration is 52 weeks (including weeks of regular benefits). However, aerospace, timber, and finfish workers who file claims on or before June 30, 2002, may receive up to 74 weeks of benefits (including weeks of regular benefits).

Training benefits are subject to available funding. Funding is limited to: (1) \$20 million for the fiscal year ending June 30, 2000; (2) \$60 million for the two fiscal years ending June 30, 2002; and (3) \$20 million for each fiscal year thereafter.

Administrative Costs of the Training Benefit Program

The costs of administering training benefits are covered by employer contributions to a special account in the administrative contingency fund. This contribution rate is 0.01 percent (the lowest contribution rate possible in the unemployment insurance system). However, because the percentage rates in the tax array are reduced by 0.01, there is no effect on employer rates. Contributions collected under this provision that exceed the amount that would have been collected if the rate had been set at 0.004 are deposited in the unemployment trust fund.

Unemployment Insurance Taxes

Washington's unemployment insurance system requires each covered employer to pay contributions on a percentage of his or her taxable payroll, except for certain employers that reimburse the Employment Security Department for benefits the agency pays to these employers' former workers. The contributions of covered employers are held in trust to pay benefits to unemployed workers.

Tax Schedule and Rates. For most covered employers, unemployment insurance contribution rates are determined by the rate in the employer's assigned rate class under the unemployment insurance tax schedule in effect for that calendar year. The employer's position in the tax array depends on the employer's layoff experience relative to other employers' experience. This relationship is determined by the calculation of a benefit ratio, which is the total benefits charged in the last four years to the employer's experience rating account divided by the employer's taxable payroll in the same period. Based on the relationship of employers' benefit ratios, employers may be placed in any one of 20 tax rate classes.

The rates in these classes are determined by the tax schedule in effect. The statute establishes seven different tax schedules, from the lowest schedule of AA through the highest schedule of F. The tax schedule that will be in effect for any given calendar year

depends on the fund balance ratio, which compares the unemployment insurance trust fund balance on June 30 of the previous year to the total payroll in covered employment in the state for the completed calendar year prior to that June 30. Under this statute, the tax schedule in effect for 2002 is schedule A.

Some covered employers are not qualified to be assigned a rate class. Unqualified employers include those who do not report enough periods of employment during the previous three years. These employers pay the average industry rate in their industry, as determined by the commissioner of the Employment Security Department, but not less than 1 percent. (Under the Federal Unemployment Tax Act, states must set a 1 percent minimum rate for unqualified employers to maintain the credit that employers in the state may take against their federal unemployment insurance tax.)

The average industry rate also applies to certain successor employers who were not employers at the time of acquiring a business. Until a new successor employer becomes a qualified employer, the rate for these successor employers is the lower of the rate assigned to the predecessor employer or the average industry rate with a 1 percent minimum rate.

Taxable Wage Base. The amount of tax that an employer pays is determined by multiplying the employer's tax rate by the employer's taxable wage base. The taxable wage base is the amount of each employee's wages subject to tax for a given rate year. This amount increases by 15 percent each year from the previous year's taxable wage base, with a cap of 80 percent of the state "average annual wage for contribution purposes." The "average annual wage for contribution purposes" is based on the average of the three previous years' wages.

Experience Rating in the Unemployment Insurance System. Under unemployment insurance's experience rating system, most benefits paid to claimants are charged to their former employers' accounts. Some benefits, however, are pooled costs within the system and are generally referred to as socialized costs. One kind of socialized cost is "noncharged benefits." The statutory list of benefits that are not charged to employer accounts includes benefits paid as training benefits. Other socialized costs include "ineffective charges" that occur when the benefits charged to an employer's account exceed the contributions that the employer pays.

Reed Act Distributions

The federal Reed Act provides a mechanism for the return of excess federal unemployment insurance taxes to state employment security agencies. When certain federal unemployment insurance funds reach their statutory caps, the excess amount is transferred to individual state accounts in the federal Unemployment Insurance Trust Fund. This transfer is referred to as a Reed Act distribution. Individual states may then use the distribution to pay unemployment benefits, to cover administrative costs, and in

some circumstances, as a revolving fund for infrastructure investments. The distribution also may be a cash infusion to an individual state's trust fund that impacts the state's effective tax schedule. The federal Job Creation and Worker Assistance Act of 2002 (Pub. L. 107-147) provides for a one-time Reed Act distribution of a total of \$8 billion in federal FY 2002 (beginning October 2001). Washington's share of this distribution is estimated to be \$168 million.

Summary of Bill:

Unemployment Insurance Benefits

Regular Benefits. Provisions governing regular benefits are modified as follows:

From July 1, 2002, to June 30, 2004, the maximum weekly benefit amount is \$496.

From July 1, 2004, to June 30, 2010, the growth rate in the maximum weekly benefit amount is capped at 4 percent. When the growth rate is less than 4 percent, increases in the maximum weekly benefit amount that would have occurred but for the cap may be partly recaptured.

After June 30, 2010, if the maximum weekly benefit amount is less than 70 percent of the average weekly wage, the maximum weekly benefit amount is restored to 70 percent of the average weekly wage as follows. The maximum weekly benefit amount is increased either in equal increments over four fiscal years, or in increments which, together with the growth rate in the maximum amount, do not exceed 9 percent in each fiscal year, whichever restores the maximum amount to 70 percent of the average weekly wage first.

Training Benefits. Provisions governing training benefits are modified as follows:

Certain dislocated aerospace workers who previously received training benefits are eligible to receive limited training benefits. The dislocated aerospace worker must have been making satisfactory progress in, but not completed, his or her training program. The dislocated aerospace worker must receive training benefits to complete that training program. This provision applies only to dislocated aerospace workers who file claims for benefits before January 5, 2003.

Individuals who are eligible to receive trade readjustment allowances under the federal Trade Act are not eligible to receive training benefits in each week that they receive such allowances.

The expiration date for the 74-week maximum duration for aerospace workers is changed. Aerospace workers who file claims for benefits on or before January 5, 2003,

may receive up to 74 weeks of benefits (including weeks of regular benefits).

An additional \$34 million is available to be obligated for training benefits for aerospace workers who file claims for benefits before January 5, 2003.

Unemployment Insurance Taxes

Qualified Employers. New employers may qualify for the tax array after two years of employment experience instead of three years.

Tax Schedule and Rates. The schedule in effect in 2004 may not be a higher schedule than Schedule C.

Beginning with rate year 2003, rates in the tax array are modified as follows:

- The percentage rates are increased in classes 1 through 4 by 0.05 (in Schedules B and C only) and in class 19 by 0.03 (in all schedules).
- Rate class 20 is divided into 5 subclasses, 20A through 20E, with rates increased to result in a range of rates from 5.4 to 6.0 percent. Assignment to subclasses is based on an employer's benefit ratio.
- The maximum rate is increased from 5.4 percent to a rate that ranges from 5.7 to 6.0 depending on the schedule in effect. However, in the agriculture industry, the maximum rate is the rate in effect in class 20A (5.4 to 5.6 percent depending on the schedule in effect).

Beginning with rate year 2005, rates in the tax array are reduced as follows:

- Rates are reduced in class 4 in Schedules B and C (but remain above current levels).
- Rates are reduced in classes 6 through 17 in Schedule A (by 9 percent) and in Schedule B (by 5 percent).
- Rates are reduced in classes 15 and 16 in Schedule AA.

An insolvency surcharge of 0.15 percent is added to all contribution-paying employer rates for rate year 2003 (unless specified federal Reed Act funds are received by the state) and for rate year 2004 (unless the fund balance ratio is above a specified level).

An equity surcharge, beginning with rate year 2005, is added to all contribution-paying employer rates (except employers in fishing and food processing in rate classes 20A through 20E) as follows:

- To be subject to the equity surcharge, the employer must have had ineffective charges in at least three of the last four years.
- The equity surcharge is calculated by dividing the employer's net ineffective charges (the amount of ineffective charges in the last four years reduced by the employer's estimated contributions over those four years) by the employer's taxable payroll in the last fiscal year.
- The maximum equity surcharge is 0.4 percent, except that the maximum surcharge is

0.6 percent if the total ineffective charges in the previous fiscal year are more than 15 percent of the total benefits paid in that year.

Taxable Wage Base. The maximum taxable wage base is increased for employers in rate classes 19 and 20A through 20E, and for contribution-paying employers not qualified to be in the array, as follows:

- For rate year 2003, the maximum taxable wage base is 85 percent of the average annual wage for contribution purposes.
- For rate year 2004 and thereafter, the maximum taxable wage base is 90 percent of the average annual wage for contribution purposes.

If a business is transferred to a successor employer who was not an employer at the time of transfer, the taxable wage base that applied to the predecessor employer at the time of the transfer applies to the successor employer for the remainder of the year.

Experience Rating for Training Benefits. Training benefits must be charged to employers' experience rating accounts beginning with claims that are effective on or after July 7, 2002.

Administrative Costs. The costs of administering the bill's provisions are covered by the employer contributions to the special account in the administrative contingency fund. The provision is deleted that requires contributions collected for this account to be deposited in the unemployment trust fund if the contributions exceed the amount that would have been collected if the rate had been set at 0.004.

Joint Task Force on Unemployment Insurance

A joint task force is created to study unemployment insurance issues. These issues include; benefits; tax equity proposals; social costs, including noncharged benefits and inactive accounts; experience rating; administrative costs; and trust fund adequacy. The task force must report its findings and recommendations to the Legislature by December 31, 2003.

The task force members include four senators, four representatives, four business representatives, and four labor representatives. Legislators serving on the task force may be reimbursed for travel expenses, but task force members are not otherwise compensated.

A technical advisory committee is appointed to assist the task force. The advisory committee members include representatives of the small business, construction, aerospace, information technology, agriculture, and retail sectors. The members must also include representatives of business and labor, and rural and urban interests.

Administrative, technical, and clerical assistance is provided by the Employment Security

Department. Staff support is provided by Senate and House committee staff.

Appropriation: None.

Fiscal Note: Requested March 6, 2002.

Effective Date: Ninety days after adjournment of session in which bill is passed, except section 2, relating to trade readjustment allowances under the federal Trade Act, which takes effect immediately, and section 8, amending the tax array for qualified employers, which takes effect January 1, 2005.

Testimony For: (on Floor Amendment) This bill enhances Washington's economic competitiveness. It makes many beneficial changes. It is the result of hard work by many parties. This bill also protects benefits, protects trust fund solvency, and stabilizes manufacturing employment in Washington. It takes a major bite out of ineffective charges, which are the largest source of socialized costs in the unemployment insurance system. It also prevents big jumps in tax schedules. The issues of tax equity and socialized costs addressed in this bill date back to 1993.

Testimony Against: (on Floor Amendment) This amendment does not represent reform of the whole unemployment insurance system, which will remain a very high cost system. Without significant cost reform, an increase in the maximum rate cannot be supported. The amendment simply redistributes the high cost and does not solve the problem. Many small employers will see a tax increase under this amendment. They are especially hard hit because a small layoff can jump them to the highest rates in the system. This package does not help Washington's competitiveness. Not everyone was at the table negotiating this package. Construction is especially hard hit by the tax increases. This cost will be passed on to home buyers and construction projects. Because of the way benefits are calculated, employers get charged for benefits that are based on unearned wages. This amendment may lead to a loss of high wage jobs. This amendment only avoids a more critical examination of the problems within the system.

Testified: (In support) Al Ralston, The Boeing Company; Jeff Johnson, Washington State Labor Council; and Linda Lanham, International Association of Machinist and Aerospace Workers -- District Lodge 751.

(Opposed) Gary Smith, Independent Business Association; Tonia Neal, Building Industry Association of Washington; Mark Johnson, National Federation of Independent Business; and Rick Slunaker, Associated General Contractors of Washington.