

# SENATE BILL REPORT

## EHB 2901

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As Reported By Senate Committee On:  
Labor, Commerce & Financial Institutions, March 13, 2002

**Title:** An act relating to unemployment insurance.

**Brief Description:** Regarding unemployment insurance.

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

**Brief History:**

**Committee Activity:** Labor, Commerce & Financial Institutions: 3/12/02, 3/13/02 [DP, DNP].

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### SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

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**Majority Report:** Do pass.

Signed by Senators Prentice, Chair; Keiser, Vice Chair; Fairley, Franklin, Gardner, Rasmussen and Regala.

**Minority Report:** Do not pass.

Signed by Senator Benton.

**Staff:** Matthew Adams (786-7784)

Joanne Conrad (786-7472)

**Background:** Unemployment Insurance Benefits. In 2000, the Legislature enacted Substitute House Bill 3077, which established unemployment insurance training benefits for certain dislocated workers. The legislation also made changes in the taxable wage base and in requirements for claimants to requalify for benefits after being disqualified.

Regular Benefits. Regular benefits are benefits payable to an unemployed worker who: (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. The maximum weekly benefit amount equals 70 percent of the average weekly wage. As of July 1, 2001, the maximum amount is \$496 and the maximum duration is 30 weeks (excluding weeks of training benefits).

Training Benefits. Training benefits are additional benefits payable to certain dislocated unemployed workers who are making satisfactory progress in a training program approved by the Department of Labor and Industries. As of July 1, 2001, the maximum weekly benefit amount is \$496 and 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.

Funding for training benefits 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.

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. Based on this relationship, 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, AA through 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. 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" 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 not charged to any employer, but are pooled costs within the system. These socialized costs are known as "noncharged costs." Costs are noncharged as determined by statute. 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:** Numerous modifications are made to the benefit and tax provisions of Washington's unemployment insurance law.

#### ISSUES INVOLVING BENEFITS

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

1. From July 1, 2002 to June 30, 2004, the maximum weekly benefit amount is \$496.
2. 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. At the end of this period, 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 payable weekly, do not exceed 9 percent in each fiscal year, whichever restores it to 70 percent of the average weekly wage first.

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

1. Certain aerospace workers who previously received training benefits are eligible to receive limited training benefits. The aerospace worker must have been making satisfactory progress in, but not completed, his or her training program. The aerospace worker must receive training benefits to complete that training program. This provision applies only to aerospace workers who file claims for benefits before January 5, 2003.
2. Individuals who are eligible to receive trade readjustment allowances under the federal Trade Act are not eligible to receive training benefits.

3. The expiration date for the 74-week maximum duration for aerospace workers is changed. Aerospace workers who file claims for benefit on or before January 5, 2003 may receive up to 74 weeks of benefits (including weeks of regular benefits).
4. An additional \$34 million is available to be obligated for training benefits for aerospace workers who file claims for benefits before January 5, 2003.

Experiencing Rating Training Benefits. Training benefits must be charged to an employer's experience rating accounts beginning with claims that are effective on or after July 7, 2002.

## ISSUES INVOLVING TAXES

New employers are allowed to qualify for the tax array after two years of employment experience, instead of three years.

Tax Rates. Tax rates are modified as follows:

1. Beginning with rate year 2003, the percentage rates are increased in rate 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 five subclasses, with rates increased to result in a range of rates from 5.4 to 6.0 percent. The maximum rate varies from 5.7 to 6.0 percent, depending on the schedule in effect, except that the maximum rate for employers in the agricultural industry is capped at the rate in effect in rate class 20A (varies from 5.4 to 5.6 percent).
2. The tax schedule in effect in 2004 may not be higher than Schedule C.
3. Beginning with rate year 2005, rates are reduced in rate classes 6 through 17, in Schedules A (by 9 percent) and B (by 5 percent); reduced in classes 15 and 16 for Schedule AA; and reduced in rate class 4 in Schedules B and C.

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

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

1. The surcharge is based on the employer's net ineffective charges.
2. 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.
3. To be subject to the surcharge, the employer must have had ineffective charges in at least three of the last four years.

Increase in Maximum Taxable Wage Base. The maximum taxable wage base (from 80 percent of the average annual wage) is increased for employers in rate classes 19 and 20A through 20E, and contribution-paying employers that are unqualified to be in the array, as follows:

1. For rate year 2003, the maximum taxable wage base is 85 percent of the average annual wage.
2. For rate year 2004, and indefinitely thereafter, the maximum taxable wage base is 90 percent of the average annual wage.

In cases where a business is transferred to a successor employer, the taxable wage base that applied to the predecessor continues to apply to the successor employer until the end of the year of the transfer.

**Appropriation:** None.

**Fiscal Note:** Requested on March 6, 2002.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** This bill is very important and represents the best effort of a business/labor coalition to address an immediate crisis in the state's unemployment insurance (UI) system. As to UI taxes, the bill will help to stabilize rates, improve tax equity within the system, and insure trust fund solvency. If nothing happens in light of the state's recession and higher unemployment rates, businesses will face a new round of tax increases. As to UI benefits, the bill adds discipline to the maximum benefits payable by freezing the average weekly wage for two years and then capping the growth rate at 4 percent. It also provides a six-month plan to help dislocated aerospace workers who have specific skills that are not transferable. Training benefits for aerospace workers are charged back to the original employer.

**Testimony Against:** Systemic reform is needed and other issues must be addressed, including voluntary quits. Benefit costs will increase; the underlying differential cost problem should be studied by a task force. Employers of seasonal workers and higher wage earners are penalized because costs are shifted to small businesses and contractors since three of the seven top chargers are exempt. This bill is very complex and its introduction late in the session is bad procedure. Some stakeholders (small businesses and contractors) did not participate in crafting a solution.

**Testified:** NEUTRAL: Mark Baldwin, Employment Security Dept.; PRO: Representative Steve Conway, prime sponsor; Al Ralston, Boeing; Linda Lanham, Aerospace Machinists Union; Jeff Johnson, WSLC; Chris Cheney, WA Growers League; Larry Vognild, Food Processors; Jan Gee, WA Food Industry/WA Retail Assn.; Kim Clauson, WA Restaurant Assn.; Linda Johnson, Farm Bureau; CON: Mark Johnson, NFIB; Gary Smith, IBA; Rick Slunaker, AGC; Kathleen Collins, Sheet Metal/Air Cond Contractors; Tonia Neal, BIAW.