Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Commerce & Labor Committee

HB 2510

Brief Description: Modifying provisions concerning unemployment compensation.

Sponsors: Representatives Conway, McCoy, Condotta, McMorris and Chase; by request of Employment Security Department.

Brief Summary of Bill

- Changes the unemployment insurance contribution rate of 8.1 percent for a calendar year for businesses found to be evading the successor employer requirements.

Hearing Date: 1/22/04

Staff: Chris Cordes (786-7103).

Background:

Washington Unemployment Insurance Contributions

General requirements. 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 who reimburse the Employment Security Department (ESD) for benefits the agency pays to these employers' former workers. 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 (or, beginning in 2005, the combined rate assigned to the employer based on layoff experience, social costs, and solvency surcharge, if any). The highest contribution rate in 2004 is 5.4 percent. Beginning in 2005, the highest rate will vary but may not exceed 6.5 percent plus a solvency surcharge, if any.

Unqualified delinquent and successor employers. Some covered employers are not qualified to be assigned a rate class. These unqualified employers include employers who are delinquent in paying contributions and certain successor employers who were not employers at the time of acquiring a business. Delinquent employers pay at a contribution rate of 5.6 percent or, beginning in 2005, two-tenths higher than the highest rate. Until a new successor employer becomes a qualified employer, the rate for these successor employers is the lower of the rate class assigned to the predecessor employer (or, beginning in 2005, the assigned rate) or the average industry rate with a 1 percent minimum rate.

For a business transfer on or after January 1, 2005, a new successor employer who has substantial continuity of ownership and management of the predecessor's business is not permitted to use the optional average industry rate, but must pay at the rate assigned to the predecessor employer, and will have the experience of the predecessor employer transferred to the successor as part of its array calculation factor rate beginning in January following the transfer.

Penalty for evading the successorship requirements. In 2003, a penalty was enacted that applies to an employer who is delinquent in paying unemployment taxes because of an intent to evade the successorship requirements and to businesses that are promoting such evasion. For five calendar quarters, these businesses will be assigned the highest contribution rate.

U.S. Department of Labor Program Letter on "SUTA Dumping"

On December 31, 2002, the U.S. Department of Labor (USDOL) issued Unemployment Insurance Program Letter No. 34-02 on "Tax Rate Manipulation - State Unemployment Tax (SUTA) Dumping." In this letter, the USDOL described transactions that some employers have used to avoid high unemployment tax rates. These transactions include a new business purchasing an existing business with a low rate or an existing business forming additional or new forms of business entities to "dump" a high tax rate. The USDOL recommended that states impose penalties on companies found to be illegally manipulating tax rates or on advisory businesses promoting such schemes.

Summary of Bill:

The penalty is changed for businesses that are delinquent in paying unemployment contributions because of an intent to evade the successorship requirements and for businesses that are promoting such evasion. Instead of being assigned the highest contribution rate for five quarters, these businesses will be assigned a rate of 8.1 percent rate for the calendar year.

Rules Authority: The bill does not contain provisions addressing the rule-making powers of an agency.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.