

SSB 5963 - H COMM AMD

By Committee on Commerce & Labor

NOT ADOPTED 04/09/2009

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 50.29.021 and 2008 c 323 s 2 are each amended to read
4 as follows:

5 (1) This section applies to benefits charged to the experience
6 rating accounts of employers for claims that have an effective date on
7 or after January 4, 2004.

8 (2)(a) An experience rating account shall be established and
9 maintained for each employer, except employers as described in RCW
10 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
11 payments in lieu of contributions, taxable local government employers
12 as described in RCW 50.44.035, and those employers who are required to
13 make payments in lieu of contributions, based on existing records of
14 the employment security department.

15 (b) Benefits paid to an eligible individual shall be charged to the
16 experience rating accounts of each of such individual's employers
17 during the individual's base year in the same ratio that the wages paid
18 by each employer to the individual during the base year bear to the
19 wages paid by all employers to that individual during that base year,
20 except as otherwise provided in this section.

21 (c) When the eligible individual's separating employer is a covered
22 contribution paying base year employer, benefits paid to the eligible
23 individual shall be charged to the experience rating account of only
24 the individual's separating employer if the individual qualifies for
25 benefits under:

26 (i) RCW 50.20.050(~~(+2)~~) (1)(b)(i) or (2)(b)(i), as applicable, and
27 became unemployed after having worked and earned wages in the bona fide
28 work; or

29 (ii) RCW 50.20.050(~~(+2)~~) (1)(b) (v) through (x) or (2)(b) (v)
30 through (x).

1 (3) The legislature finds that certain benefit payments, in whole
2 or in part, should not be charged to the experience rating accounts of
3 employers except those employers described in RCW 50.44.010, 50.44.030,
4 and 50.50.030 who have properly elected to make payments in lieu of
5 contributions, taxable local government employers described in RCW
6 50.44.035, and those employers who are required to make payments in
7 lieu of contributions, as follows:

8 (a) Benefits paid to any individual later determined to be
9 ineligible shall not be charged to the experience rating account of any
10 contribution paying employer. However, when a benefit claim becomes
11 invalid due to an amendment or adjustment of a report where the
12 employer failed to report or inaccurately reported hours worked or
13 remuneration paid, or both, all benefits paid will be charged to the
14 experience rating account of the contribution paying employer or
15 employers that originally filed the incomplete or inaccurate report or
16 reports. An employer who reimburses the trust fund for benefits paid
17 to workers and who fails to report or inaccurately reported hours
18 worked or remuneration paid, or both, shall reimburse the trust fund
19 for all benefits paid that are based on the originally filed incomplete
20 or inaccurate report or reports.

21 (b) Benefits paid to an individual filing under the provisions of
22 chapter 50.06 RCW shall not be charged to the experience rating account
23 of any contribution paying employer only if:

24 (i) The individual files under RCW 50.06.020(1) after receiving
25 crime victims' compensation for a disability resulting from a nonwork-
26 related occurrence; or

27 (ii) The individual files under RCW 50.06.020(2).

28 (c) Benefits paid which represent the state's share of benefits
29 payable as extended benefits defined under RCW 50.22.010(6) shall not
30 be charged to the experience rating account of any contribution paying
31 employer.

32 (d) In the case of individuals who requalify for benefits under RCW
33 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
34 the disqualifying separation shall not be charged to the experience
35 rating account of the contribution paying employer from whom that
36 separation took place.

37 (e) Benefits paid to an individual who qualifies for benefits under

1 RCW 50.20.050(~~(+2)~~) (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as
2 applicable, shall not be charged to the experience rating account of
3 any contribution paying employer.

4 (f) With respect to claims with an effective date on or after the
5 first Sunday following April 22, 2005, benefits paid that exceed the
6 benefits that would have been paid if the weekly benefit amount for the
7 claim had been determined as one percent of the total wages paid in the
8 individual's base year shall not be charged to the experience rating
9 account of any contribution paying employer. This subsection (3)(f)
10 does not apply to the calculation of contribution rates under RCW
11 50.29.025 for rate year 2010 and thereafter.

12 (4)(a) A contribution paying base year employer, not otherwise
13 eligible for relief of charges for benefits under this section, may
14 receive such relief if the benefit charges result from payment to an
15 individual who:

16 (i) Last left the employ of such employer voluntarily for reasons
17 not attributable to the employer;

18 (ii) Was discharged for misconduct or gross misconduct connected
19 with his or her work not a result of inability to meet the minimum job
20 requirements;

21 (iii) Is unemployed as a result of closure or severe curtailment of
22 operation at the employer's plant, building, worksite, or other
23 facility. This closure must be for reasons directly attributable to a
24 catastrophic occurrence such as fire, flood, or other natural disaster;
25 or

26 (iv) Continues to be employed on a regularly scheduled permanent
27 part-time basis by a base year employer and who at some time during the
28 base year was concurrently employed and subsequently separated from at
29 least one other base year employer. Benefit charge relief ceases when
30 the employment relationship between the employer requesting relief and
31 the claimant is terminated. This subsection does not apply to shared
32 work employers under chapter 50.06 RCW.

33 (b) The employer requesting relief of charges under this subsection
34 must request relief in writing within thirty days following mailing to
35 the last known address of the notification of the valid initial
36 determination of such claim, stating the date and reason for the
37 separation or the circumstances of continued employment. The

1 commissioner, upon investigation of the request, shall determine
2 whether relief should be granted.

3 **Sec. 2.** RCW 50.29.025 and 2007 c 51 s 1 are each amended to read
4 as follows:

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

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

16 (b) ~~The interval of the fund balance ratio, expressed as a~~
17 ~~percentage, shall determine which tax schedule in (e) of this~~
18 ~~subsection shall be in effect for assigning tax rates for the rate~~
19 ~~year. The intervals for determining the effective tax schedule shall~~
20 ~~be:~~

21	Interval of the	
22	Fund Balance Ratio	Effective
23	Expressed as a Percentage	Tax Schedule
24	2.90 and above	AA
25	2.10 to 2.89	A
26	1.70 to 2.09	B
27	1.40 to 1.69	C
28	1.00 to 1.39	D
29	0.70 to 0.99	E
30	Less than 0.70	F

31 (c) ~~An array shall be prepared, listing all qualified employers in~~
32 ~~ascending order of their benefit ratios. The array shall show for each~~
33 ~~qualified employer: (i) Identification number; (ii) benefit ratio;~~
34 ~~(iii) taxable payrolls for the four calendar quarters immediately~~

1 preceding the computation date and reported to the department by the
 2 cut-off date; (iv) a cumulative total of taxable payrolls consisting of
 3 the employer's taxable payroll plus the taxable payrolls of all other
 4 employers preceding him or her in the array; and (v) the percentage
 5 equivalent of the cumulative total of taxable payrolls.

6 (d) Each employer in the array shall be assigned to one of twenty
 7 rate classes according to the percentage intervals of cumulative
 8 taxable payrolls set forth in (e) of this subsection: PROVIDED, That
 9 if an employer's taxable payroll falls within two or more rate classes,
 10 the employer and any other employer with the same benefit ratio shall
 11 be assigned to the lowest rate class which includes any portion of the
 12 employer's taxable payroll.

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

Percent of		Schedules of Contributions Rates								
Cumulative		for Effective Tax Schedule								
Taxable Payrolls										
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	

1	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97
2	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17
3	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37
4	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40

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

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

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

~~(2) Beginning with)) For contributions assessed for rate years 2005 through 2009, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.~~

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

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

~~(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and,~~

1 except as provided in RCW 50.29.026, the array calculation factor rate
2 for each employer in the array shall be the rate specified in the rate
3 class to which the employer has been assigned:

4	Benefit Ratio		Rate	Rate
5	At least	Less than	Class	(percent)
6		0.000001	1	0.00
7	0.000001	0.001250	2	0.13
8	0.001250	0.002500	3	0.25
9	0.002500	0.003750	4	0.38
10	0.003750	0.005000	5	0.50
11	0.005000	0.006250	6	0.63
12	0.006250	0.007500	7	0.75
13	0.007500	0.008750	8	0.88
14	0.008750	0.010000	9	1.00
15	0.010000	0.011250	10	1.15
16	0.011250	0.012500	11	1.30
17	0.012500	0.013750	12	1.45
18	0.013750	0.015000	13	1.60
19	0.015000	0.016250	14	1.75
20	0.016250	0.017500	15	1.90
21	0.017500	0.018750	16	2.05
22	0.018750	0.020000	17	2.20
23	0.020000	0.021250	18	2.35
24	0.021250	0.022500	19	2.50
25	0.022500	0.023750	20	2.65
26	0.023750	0.025000	21	2.80
27	0.025000	0.026250	22	2.95
28	0.026250	0.027500	23	3.10
29	0.027500	0.028750	24	3.25
30	0.028750	0.030000	25	3.40
31	0.030000	0.031250	26	3.55
32	0.031250	0.032500	27	3.70
33	0.032500	0.033750	28	3.85
34	0.033750	0.035000	29	4.00
35	0.035000	0.036250	30	4.15
36	0.036250	0.037500	31	4.30

1	0.037500	0.040000	32	4.45
2	0.040000	0.042500	33	4.60
3	0.042500	0.045000	34	4.75
4	0.045000	0.047500	35	4.90
5	0.047500	0.050000	36	5.05
6	0.050000	0.052500	37	5.20
7	0.052500	0.055000	38	5.30
8	0.055000	0.057500	39	5.35
9	0.057500		40	5.40

10 (b) The graduated social cost factor rate shall be determined as
11 follows:

12 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
13 the commissioner shall calculate the flat social cost factor for a rate
14 year by dividing the total social cost by the total taxable payroll.
15 The division shall be carried to the second decimal place with the
16 remaining fraction disregarded unless it amounts to five hundredths or
17 more, in which case the second decimal place shall be rounded to the
18 next higher digit. The flat social cost factor shall be expressed as
19 a percentage.

20 (B) If, on the cut-off date, the balance in the unemployment
21 compensation fund is determined by the commissioner to be an amount
22 that will provide more than ten months of unemployment benefits, the
23 commissioner shall calculate the flat social cost factor for the rate
24 year immediately following the cut-off date by reducing the total
25 social cost by the dollar amount that represents the number of months
26 for which the balance in the unemployment compensation fund on the cut-
27 off date will provide benefits above ten months and dividing the result
28 by the total taxable payroll. However, the calculation under this
29 subsection (~~((+2))~~) (1)(b)(i)(B) for a rate year may not result in a
30 flat social cost factor that is more than four-tenths lower than the
31 calculation under (b)(i)(A) of this subsection for that rate year.

32 For the purposes of this subsection, the commissioner shall
33 determine the number of months of unemployment benefits in the
34 unemployment compensation fund using the benefit cost rate for the
35 average of the three highest calendar benefit cost rates in the twenty
36 consecutive completed calendar years immediately preceding the cut-off

1 date or a period of consecutive calendar years immediately preceding
2 the cut-off date that includes three recessions, if longer.

3 (C) The minimum flat social cost factor calculated under this
4 subsection (~~((+2+))~~) (1)(b) shall be six-tenths of one percent, except
5 that if the balance in the unemployment compensation fund is determined
6 by the commissioner to be an amount that will provide:

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

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

13 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
14 graduated social cost factor rate for each employer in the array is the
15 flat social cost factor multiplied by the percentage specified as
16 follows for the rate class to which the employer has been assigned in
17 (a)(ii) of this subsection, except that the sum of an employer's array
18 calculation factor rate and the graduated social cost factor rate may
19 not exceed six and five-tenths percent or, for employers whose North
20 American industry classification system code is within "111," "112,"
21 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six
22 percent through rate year 2007 and may not exceed five and seven-tenths
23 percent for rate years 2008 and (~~(thereafter))~~) 2009:

24 (I) Rate class 1 - 78 percent;

25 (II) Rate class 2 - 82 percent;

26 (III) Rate class 3 - 86 percent;

27 (IV) Rate class 4 - 90 percent;

28 (V) Rate class 5 - 94 percent;

29 (VI) Rate class 6 - 98 percent;

30 (VII) Rate class 7 - 102 percent;

31 (VIII) Rate class 8 - 106 percent;

32 (IX) Rate class 9 - 110 percent;

33 (X) Rate class 10 - 114 percent;

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

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

36 (B) For contributions assessed beginning July 1, 2005, through
37 December 31, 2007, for employers whose North American industry

1 classification system code is "111," "112," "1141," "115," "3114,"
2 "3117," "42448," or "49312," the graduated social cost factor rate is
3 zero.

4 (iii) For the purposes of this section:

5 (A) "Total social cost" means the amount calculated by subtracting
6 the array calculation factor contributions paid by all employers with
7 respect to the four consecutive calendar quarters immediately preceding
8 the computation date and paid to the employment security department by
9 the cut-off date from the total unemployment benefits paid to claimants
10 in the same four consecutive calendar quarters. To calculate the flat
11 social cost factor for rate year 2005, the commissioner shall calculate
12 the total social cost using the array calculation factor contributions
13 that would have been required to be paid by all employers in the
14 calculation period if (a) of this subsection had been in effect for the
15 relevant period.

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

21 (c) For employers who do not meet the definition of "qualified
22 employer" by reason of failure to pay contributions when due:

23 (i) The array calculation factor rate shall be two-tenths higher
24 than that in rate class 40, except employers who have an approved
25 agency-deferred payment contract by September 30th of the previous rate
26 year. If any employer with an approved agency-deferred payment
27 contract fails to make any one of the succeeding deferred payments or
28 fails to submit any succeeding tax report and payment in a timely
29 manner, the employer's tax rate shall immediately revert to an array
30 calculation factor rate two-tenths higher than that in rate class 40;
31 and

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

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

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

36 (A) The array calculation factor rate shall be a rate equal to the
37 average industry array calculation factor rate as determined by the

1 commissioner, plus fifteen percent of that amount; however, the rate
2 may not be less than one percent or more than the array calculation
3 factor rate in rate class 40; and

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

9 (ii) (~~Beginning with~~) For contributions assessed for rate years
10 2008 and 2009:

11 (A) The array calculation factor rate shall be a rate equal to the
12 average industry array calculation factor rate as determined by the
13 commissioner, multiplied by the history factor, but not less than one
14 percent or more than the array calculation factor rate in rate class
15 40;

16 (B) The social cost factor rate shall be a rate equal to the
17 average industry social cost factor rate as determined by the
18 commissioner, multiplied by the history factor, but not more than the
19 social cost factor rate assigned to rate class 40 under (b)(ii) of this
20 subsection; and

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

34	History	History
35	Ratio	Factor
36		(percent)

	At least	Less than	
(I)		.95	90
(II)	.95	1.05	100
(III)	1.05		115

(2) For contributions assessed in rate year 2010 and thereafter, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

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

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

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

<u>Benefit Ratio</u>		<u>Rate</u>	<u>Rate</u>
<u>At least</u>	<u>Less than</u>	<u>Class</u>	<u>(percent)</u>
	<u>0.000001</u>	<u>1</u>	<u>0.00</u>
<u>0.000001</u>	<u>0.001250</u>	<u>2</u>	<u>0.11</u>
<u>0.001250</u>	<u>0.002500</u>	<u>3</u>	<u>0.22</u>
<u>0.002500</u>	<u>0.003750</u>	<u>4</u>	<u>0.33</u>
<u>0.003750</u>	<u>0.005000</u>	<u>5</u>	<u>0.43</u>
<u>0.005000</u>	<u>0.006250</u>	<u>6</u>	<u>0.54</u>
<u>0.006250</u>	<u>0.007500</u>	<u>7</u>	<u>0.65</u>
<u>0.007500</u>	<u>0.008750</u>	<u>8</u>	<u>0.76</u>
<u>0.008750</u>	<u>0.010000</u>	<u>9</u>	<u>0.88</u>
<u>0.010000</u>	<u>0.011250</u>	<u>10</u>	<u>1.01</u>

1	<u>0.011250</u>	<u>0.012500</u>	<u>11</u>	<u>1.14</u>
2	<u>0.012500</u>	<u>0.013750</u>	<u>12</u>	<u>1.28</u>
3	<u>0.013750</u>	<u>0.015000</u>	<u>13</u>	<u>1.41</u>
4	<u>0.015000</u>	<u>0.016250</u>	<u>14</u>	<u>1.54</u>
5	<u>0.016250</u>	<u>0.017500</u>	<u>15</u>	<u>1.67</u>
6	<u>0.017500</u>	<u>0.018750</u>	<u>16</u>	<u>1.80</u>
7	<u>0.018750</u>	<u>0.020000</u>	<u>17</u>	<u>1.94</u>
8	<u>0.020000</u>	<u>0.021250</u>	<u>18</u>	<u>2.07</u>
9	<u>0.021250</u>	<u>0.022500</u>	<u>19</u>	<u>2.20</u>
10	<u>0.022500</u>	<u>0.023750</u>	<u>20</u>	<u>2.38</u>
11	<u>0.023750</u>	<u>0.025000</u>	<u>21</u>	<u>2.50</u>
12	<u>0.025000</u>	<u>0.026250</u>	<u>22</u>	<u>2.63</u>
13	<u>0.026250</u>	<u>0.027500</u>	<u>23</u>	<u>2.75</u>
14	<u>0.027500</u>	<u>0.028750</u>	<u>24</u>	<u>2.88</u>
15	<u>0.028750</u>	<u>0.030000</u>	<u>25</u>	<u>3.00</u>
16	<u>0.030000</u>	<u>0.031250</u>	<u>26</u>	<u>3.13</u>
17	<u>0.031250</u>	<u>0.032500</u>	<u>27</u>	<u>3.25</u>
18	<u>0.032500</u>	<u>0.033750</u>	<u>28</u>	<u>3.38</u>
19	<u>0.033750</u>	<u>0.035000</u>	<u>29</u>	<u>3.50</u>
20	<u>0.035000</u>	<u>0.036250</u>	<u>30</u>	<u>3.63</u>
21	<u>0.036250</u>	<u>0.037500</u>	<u>31</u>	<u>3.75</u>
22	<u>0.037500</u>	<u>0.040000</u>	<u>32</u>	<u>4.00</u>
23	<u>0.040000</u>	<u>0.042500</u>	<u>33</u>	<u>4.25</u>
24	<u>0.042500</u>	<u>0.045000</u>	<u>34</u>	<u>4.50</u>
25	<u>0.045000</u>	<u>0.047500</u>	<u>35</u>	<u>4.75</u>
26	<u>0.047500</u>	<u>0.050000</u>	<u>36</u>	<u>5.00</u>
27	<u>0.050000</u>	<u>0.052500</u>	<u>37</u>	<u>5.15</u>
28	<u>0.052500</u>	<u>0.055000</u>	<u>38</u>	<u>5.25</u>
29	<u>0.055000</u>	<u>0.057500</u>	<u>39</u>	<u>5.30</u>
30	<u>0.057500</u>		<u>40</u>	<u>5.40</u>

31 (b) The graduated social cost factor rate shall be determined as
32 follows:

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

1 more, in which case the second decimal place shall be rounded to the
2 next higher digit. The flat social cost factor shall be expressed as
3 a percentage.

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

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

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

27 (I) At least ten months but less than eleven months of unemployment
28 benefits, the minimum shall be five-tenths of one percent; or

29 (II) At least eleven months but less than twelve months of
30 unemployment benefits, the minimum shall be forty-five hundredths of
31 one percent; or

32 (III) At least twelve months but less than thirteen months of
33 unemployment benefits, the minimum shall be four-tenths of one percent;
34 or

35 (IV) At least thirteen months but less than fifteen months of
36 unemployment benefits, the minimum shall be thirty-five hundredths of
37 one percent; or

1 (V) At least fifteen months but less than seventeen months of
2 unemployment benefits, the minimum shall be twenty-five hundredths of
3 one percent; or

4 (VI) At least seventeen months but less than eighteen months of
5 unemployment benefits, the minimum shall be fifteen hundredths of one
6 percent; or

7 (VII) At least eighteen months of unemployment benefits, the
8 minimum shall be fifteen hundredths of one percent through rate year
9 2011 and shall be zero thereafter.

10 (ii) The graduated social cost factor rate for each employer in the
11 array is the flat social cost factor multiplied by the percentage
12 specified as follows for the rate class to which the employer has been
13 assigned in (a)(ii) of this subsection, except that the sum of an
14 employer's array calculation factor rate and the graduated social cost
15 factor rate may not exceed six percent or, for employers whose North
16 American industry classification system code is within "111," "112,"
17 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five
18 and four-tenths percent:

19 (A) Rate class 1 - 78 percent;

20 (B) Rate class 2 - 82 percent;

21 (C) Rate class 3 - 86 percent;

22 (D) Rate class 4 - 90 percent;

23 (E) Rate class 5 - 94 percent;

24 (F) Rate class 6 - 98 percent;

25 (G) Rate class 7 - 102 percent;

26 (H) Rate class 8 - 106 percent;

27 (I) Rate class 9 - 110 percent;

28 (J) Rate class 10 - 114 percent;

29 (K) Rate class 11 - 118 percent; and

30 (L) Rate classes 12 through 40 - 120 percent.

31 (iii) For the purposes of this section:

32 (A) "Total social cost" means the amount calculated by subtracting
33 the array calculation factor contributions paid by all employers with
34 respect to the four consecutive calendar quarters immediately preceding
35 the computation date and paid to the employment security department by
36 the cut-off date from the total unemployment benefits paid to claimants
37 in the same four consecutive calendar quarters.

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

6 (c) For employers who do not meet the definition of "qualified
7 employer" by reason of failure to pay contributions when due:

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

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

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

20 (i) The array calculation factor rate shall be a rate equal to the
21 average industry array calculation factor rate as determined by the
22 commissioner, multiplied by the history factor, but not less than one
23 percent or more than the array calculation factor rate in rate class
24 40;

25 (ii) The social cost factor rate shall be a rate equal to the
26 average industry social cost factor rate as determined by the
27 commissioner, multiplied by the history factor, but not more than the
28 social cost factor rate assigned to rate class 40 under (b)(ii) of this
29 subsection; and

30 (iii) The history factor shall be based on the total amounts of
31 benefits charged and contributions paid in the three fiscal years
32 ending prior to the computation date by employers not qualified to be
33 in the array, other than employers in (c) of this subsection, who were
34 first subject to contributions in the calendar year ending three years
35 prior to the computation date. The commissioner shall calculate the
36 history ratio by dividing the total amount of benefits charged by the
37 total amount of contributions paid in this three-year period by these
38 employers. The division shall be carried to the second decimal place

1 with the remaining fraction disregarded unless it amounts to five
 2 one-hundredths or more, in which case the second decimal place shall be
 3 rounded to the next higher digit. The commissioner shall determine the
 4 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>	
9	<u>(A)</u>	<u>.95</u>	<u>90</u>
10	<u>(B)</u>	<u>.95</u>	<u>100</u>
11	<u>(C)</u>	<u>1.05</u>	<u>115</u>

12 (3) Assignment of employers by the commissioner to industrial
 13 classification, for purposes of this section, shall be in accordance
 14 with established classification practices found (~~in the "Standard~~
 15 ~~Industrial Classification Manual" issued by the federal office of~~
 16 ~~management and budget to the third digit provided in the standard~~
 17 ~~industrial classification code, or)) in the North American industry
 18 classification system code.~~

19 **Sec. 3.** RCW 50.20.050 and 2008 c 323 s 1 are each amended to read
 20 as follows:

21 (1) (~~With respect to claims that have an effective date before~~
 22 ~~January 4, 2004:~~

23 ~~(a) An individual shall be disqualified from benefits beginning~~
 24 ~~with the first day of the calendar week in which he or she has left~~
 25 ~~work voluntarily without good cause and thereafter for seven calendar~~
 26 ~~weeks and until he or she has obtained bona fide work in employment~~
 27 ~~covered by this title and earned wages in that employment equal to~~
 28 ~~seven times his or her weekly benefit amount.~~

29 ~~The disqualification shall continue if the work obtained is a mere~~
 30 ~~sham to qualify for benefits and is not bona fide work. In determining~~
 31 ~~whether work is of a bona fide nature, the commissioner shall consider~~
 32 ~~factors including but not limited to the following:~~

33 ~~(i) The duration of the work;~~

1 ~~(ii) The extent of direction and control by the employer over the~~
2 ~~work; and~~

3 ~~(iii) The level of skill required for the work in light of the~~
4 ~~individual's training and experience.~~

5 ~~(b) An individual shall not be considered to have left work~~
6 ~~voluntarily without good cause when:~~

7 ~~(i) He or she has left work to accept a bona fide offer of bona~~
8 ~~fide work as described in (a) of this subsection;~~

9 ~~(ii) The separation was because of the illness or disability of the~~
10 ~~claimant or the death, illness, or disability of a member of the~~
11 ~~claimant's immediate family if the claimant took all reasonable~~
12 ~~precautions, in accordance with any regulations that the commissioner~~
13 ~~may prescribe, to protect his or her employment status by having~~
14 ~~promptly notified the employer of the reason for the absence and by~~
15 ~~having promptly requested reemployment when again able to assume~~
16 ~~employment: PROVIDED, That these precautions need not have been taken~~
17 ~~when they would have been a futile act, including those instances when~~
18 ~~the futility of the act was a result of a recognized labor/management~~
19 ~~dispatch system;~~

20 ~~(iii) He or she has left work to relocate for the spouse's~~
21 ~~employment that is due to an employer-initiated mandatory transfer that~~
22 ~~is outside the existing labor market area if the claimant remained~~
23 ~~employed as long as was reasonable prior to the move; or~~

24 ~~(iv) The separation was necessary to protect the claimant or the~~
25 ~~claimant's immediate family members from domestic violence, as defined~~
26 ~~in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.~~

27 ~~(c) In determining under this subsection whether an individual has~~
28 ~~left work voluntarily without good cause, the commissioner shall only~~
29 ~~consider work-connected factors such as the degree of risk involved to~~
30 ~~the individual's health, safety, and morals, the individual's physical~~
31 ~~fitness for the work, the individual's ability to perform the work, and~~
32 ~~such other work-connected factors as the commissioner may deem~~
33 ~~pertinent, including state and national emergencies. Good cause shall~~
34 ~~not be established for voluntarily leaving work because of its distance~~
35 ~~from an individual's residence where the distance was known to the~~
36 ~~individual at the time he or she accepted the employment and where, in~~
37 ~~the judgment of the department, the distance is customarily traveled by~~
38 ~~workers in the individual's job classification and labor market, nor~~

1 because of any other significant work factor which was generally known
2 and present at the time he or she accepted employment, unless the
3 related circumstances have so changed as to amount to a substantial
4 involuntary deterioration of the work factor or unless the commissioner
5 determines that other related circumstances would work an unreasonable
6 hardship on the individual were he or she required to continue in the
7 employment.

8 ~~(d) Subsection (1)(a) and (c) of this section shall not apply to an~~
9 ~~individual whose marital status or domestic responsibilities cause him~~
10 ~~or her to leave employment. Such an individual shall not be eligible~~
11 ~~for unemployment insurance benefits beginning with the first day of the~~
12 ~~calendar week in which he or she left work and thereafter for seven~~
13 ~~calendar weeks and until he or she has requalified, either by obtaining~~
14 ~~bona fide work in employment covered by this title and earning wages in~~
15 ~~that employment equal to seven times his or her weekly benefit amount~~
16 ~~or by reporting in person to the department during ten different~~
17 ~~calendar weeks and certifying on each occasion that he or she is ready,~~
18 ~~able, and willing to immediately accept any suitable work which may be~~
19 ~~offered, is actively seeking work pursuant to customary trade~~
20 ~~practices, and is utilizing such employment counseling and placement~~
21 ~~services as are available through the department. This subsection does~~
22 ~~not apply to individuals covered by (b)(ii) or (iii) of this~~
23 ~~subsection.~~

24 ~~(2))~~ With respect to claims that have an effective date on or
25 after January 4, 2004, and separations that occur before September 6,
26 2009:

27 (a) An individual shall be disqualified from benefits beginning
28 with the first day of the calendar week in which he or she has left
29 work voluntarily without good cause and thereafter for seven calendar
30 weeks and until he or she has obtained bona fide work in employment
31 covered by this title and earned wages in that employment equal to
32 seven times his or her weekly benefit amount.

33 The disqualification shall continue if the work obtained is a mere
34 sham to qualify for benefits and is not bona fide work. In determining
35 whether work is of a bona fide nature, the commissioner shall consider
36 factors including but not limited to the following:

37 (i) The duration of the work;

1 (ii) The extent of direction and control by the employer over the
2 work; and

3 (iii) The level of skill required for the work in light of the
4 individual's training and experience.

5 (b) An individual is not disqualified from benefits under (a) of
6 this subsection when:

7 (i) He or she has left work to accept a bona fide offer of bona
8 fide work as described in (a) of this subsection;

9 (ii) The separation was necessary because of the illness or
10 disability of the claimant or the death, illness, or disability of a
11 member of the claimant's immediate family if:

12 (A) The claimant pursued all reasonable alternatives to preserve
13 his or her employment status by requesting a leave of absence, by
14 having promptly notified the employer of the reason for the absence,
15 and by having promptly requested reemployment when again able to assume
16 employment. These alternatives need not be pursued, however, when they
17 would have been a futile act, including those instances when the
18 futility of the act was a result of a recognized labor/management
19 dispatch system; and

20 (B) The claimant terminated his or her employment status, and is
21 not entitled to be reinstated to the same position or a comparable or
22 similar position;

23 (iii)(A) With respect to claims that have an effective date before
24 July 2, 2006, he or she: (I) Left work to relocate for the spouse's
25 employment that, due to a mandatory military transfer: (1) Is outside
26 the existing labor market area; and (2) is in Washington or another
27 state that, pursuant to statute, does not consider such an individual
28 to have left work voluntarily without good cause; and (II) remained
29 employed as long as was reasonable prior to the move;

30 (B) With respect to claims that have an effective date on or after
31 July 2, 2006, he or she: (I) Left work to relocate for the spouse's
32 employment that, due to a mandatory military transfer, is outside the
33 existing labor market area; and (II) remained employed as long as was
34 reasonable prior to the move;

35 (iv) The separation was necessary to protect the claimant or the
36 claimant's immediate family members from domestic violence, as defined
37 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

1 (v) The individual's usual compensation was reduced by twenty-five
2 percent or more;

3 (vi) The individual's usual hours were reduced by twenty-five
4 percent or more;

5 (vii) The individual's worksite changed, such change caused a
6 material increase in distance or difficulty of travel, and, after the
7 change, the commute was greater than is customary for workers in the
8 individual's job classification and labor market;

9 (viii) The individual's worksite safety deteriorated, the
10 individual reported such safety deterioration to the employer, and the
11 employer failed to correct the hazards within a reasonable period of
12 time;

13 (ix) The individual left work because of illegal activities in the
14 individual's worksite, the individual reported such activities to the
15 employer, and the employer failed to end such activities within a
16 reasonable period of time;

17 (x) The individual's usual work was changed to work that violates
18 the individual's religious convictions or sincere moral beliefs; or

19 (xi) The individual left work to enter an apprenticeship program
20 approved by the Washington state apprenticeship training council.
21 Benefits are payable beginning Sunday of the week prior to the week in
22 which the individual begins active participation in the apprenticeship
23 program.

24 (2) With respect to separations that occur on or after September 6,
25 2009:

26 (a) An individual shall be disqualified from benefits beginning
27 with the first day of the calendar week in which he or she has left
28 work voluntarily without good cause and thereafter for seven calendar
29 weeks and until he or she has obtained bona fide work in employment
30 covered by this title and earned wages in that employment equal to
31 seven times his or her weekly benefit amount.

32 The disqualification shall continue if the work obtained is a mere
33 sham to qualify for benefits and is not bona fide work. In determining
34 whether work is of a bona fide nature, the commissioner shall consider
35 factors including but not limited to the following:

36 (i) The duration of the work;

37 (ii) The extent of direction and control by the employer over the
38 work; and

1 (iii) The level of skill required for the work in light of the
2 individual's training and experience.

3 (b) An individual has good cause and is not disqualified from
4 benefits under (a) of this subsection only under the following
5 circumstances:

6 (i) He or she has left work to accept a bona fide offer of bona
7 fide work as described in (a) of this subsection;

8 (ii) The separation was necessary because of the illness or
9 disability of the claimant or the death, illness, or disability of a
10 member of the claimant's immediate family if:

11 (A) The claimant pursued all reasonable alternatives to preserve
12 his or her employment status by requesting a leave of absence, by
13 having promptly notified the employer of the reason for the absence,
14 and by having promptly requested reemployment when again able to assume
15 employment. These alternatives need not be pursued, however, when they
16 would have been a futile act, including those instances when the
17 futility of the act was a result of a recognized labor/management
18 dispatch system; and

19 (B) The claimant terminated his or her employment status, and is
20 not entitled to be reinstated to the same position or a comparable or
21 similar position;

22 (iii) The claimant: (A) Left work to relocate for the employment
23 of a spouse or domestic partner that is outside the existing labor
24 market area; and (B) remained employed as long as was reasonable prior
25 to the move;

26 (iv) The separation was necessary to protect the claimant or the
27 claimant's immediate family members from domestic violence, as defined
28 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

29 (v) The individual's usual compensation was reduced by twenty-five
30 percent or more;

31 (vi) The individual's usual hours were reduced by twenty-five
32 percent or more;

33 (vii) The individual's worksite changed, such change caused a
34 material increase in distance or difficulty of travel, and, after the
35 change, the commute was greater than is customary for workers in the
36 individual's job classification and labor market;

37 (viii) The individual's worksite safety deteriorated, the

1 individual reported such safety deterioration to the employer, and the
2 employer failed to correct the hazards within a reasonable period of
3 time;

4 (ix) The individual left work because of illegal activities in the
5 individual's worksite, the individual reported such activities to the
6 employer, and the employer failed to end such activities within a
7 reasonable period of time;

8 (x) The individual's usual work was changed to work that violates
9 the individual's religious convictions or sincere moral beliefs;

10 (xi) The individual left work to enter an apprenticeship program
11 approved by the Washington state apprenticeship training council.
12 Benefits are payable beginning Sunday of the week prior to the week in
13 which the individual begins active participation in the apprenticeship
14 program; or

15 (xii) The individual left work because continuing in employment
16 would work an unreasonable hardship on the individual. "Unreasonable
17 hardship" means a result not due to the individual's voluntary action
18 that would cause a reasonable person to leave that employment. The
19 circumstances must be based on existing facts, not conjecture, and the
20 reasons for leaving work must be significant. An individual seeking to
21 demonstrate unreasonable hardship must show that:

22 (A) The individual left work primarily for reasons connected with
23 his or her employment;

24 (B) The work-connected reasons were of such a compelling nature
25 they would have caused a reasonably prudent person to leave work; and

26 (C) The individual first exhausted all reasonable alternatives
27 before leaving work, unless pursuing reasonable alternatives would have
28 been futile.

29 **Sec. 4.** RCW 50.20.120 and 2009 c 3 s 3 are each amended to read as
30 follows:

31 Except as provided in RCW 50.20.--- (section 2, chapter 3, Laws of
32 2009), benefits shall be payable as provided in this section.

33 (1) For claims with an effective date on or after April 4, 2004,
34 benefits shall be payable to any eligible individual during the
35 individual's benefit year in a maximum amount equal to the lesser of
36 twenty-six times the weekly benefit amount, as determined in subsection

1 (2) of this section, or one-third of the individual's base year wages
2 under this title.

3 (2)(a) For claims with an effective date on or after April 24,
4 2005, and before January 3, 2010, an individual's weekly benefit amount
5 shall be an amount equal to three and eighty-five one-hundredths
6 percent of the average quarterly wages of the individual's total wages
7 during the two quarters of the individual's base year in which such
8 total wages were highest.

9 (b) For claims with an effective date on or after January 3, 2010,
10 and before January 3, 2016:

11 (i) Except as provided in (b)(ii) of this subsection, an
12 individual's weekly benefit amount shall be an amount equal to four
13 percent of the average quarterly wages of the individual's total wages
14 during the two quarters of the individual's base year in which such
15 total wages were highest.

16 (ii) An individual's weekly benefit amount shall be an amount equal
17 to three and eighty-five one-hundredths percent of the average
18 quarterly wages of the individual's total wages during the two quarters
19 of the individual's base year in which such total wages were highest if
20 the commissioner determines that:

21 (A) Additional compensation is payable pursuant to section 2002 of
22 the American recovery and reinvestment act of 2009 or a substantially
23 similar federal law, or pursuant to RCW 50.20.--- (section 2, chapter
24 3, Laws of 2009), or a substantially similar state law; or

25 (B) The balance in the unemployment compensation fund is an amount
26 that will provide fewer than eight months of unemployment benefits.

27 (c) For claims with an effective date on or after January 3, 2016,
28 an individual's weekly benefit amount shall be an amount equal to four
29 percent of the average quarterly wages of the individual's total wages
30 during the two quarters of the individual's base year in which such
31 total wages were highest.

32 (3) The maximum and minimum amounts payable weekly shall be
33 determined as of each June 30th to apply to benefit years beginning in
34 the twelve-month period immediately following such June 30th.

35 (a) The maximum amount payable weekly shall be either four hundred
36 ninety-six dollars or sixty-three percent of the "average weekly wage"
37 for the calendar year preceding such June 30th, whichever is greater.

1 (b) The minimum amount payable weekly shall be fifteen percent of
2 the "average weekly wage" for the calendar year preceding such June
3 30th.

4 (4) If any weekly benefit, maximum benefit, or minimum benefit
5 amount computed herein is not a multiple of one dollar, it shall be
6 reduced to the next lower multiple of one dollar.

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

17 NEW SECTION. **Sec. 6.** If any provision of this act or its
18 application to any person or circumstance is held invalid, the
19 remainder of the act or the application of the provision to other
20 persons or circumstances is not affected."

21 Correct the title.

EFFECT: Specifies that an individual is not disqualified from
receiving benefits if he or she leaves work because continuing in
employment would work an unreasonable hardship on the individual.
Defines "unreasonable hardship" and specifies what an individual must
show to demonstrate unreasonable hardship. Makes corrections to
internal references.

Specifies that, for claims on or after January 3, 2010, the
multiplier used to calculate an individual's weekly benefit amount is
4.0 percent. However, for claims on or after January 3, 2010, and
before January 3, 2016, the multiplier is 3.85 percent (same as current
law) if additional federal or state compensation is payable or the
balance in the trust fund is less than 8 months of benefits.

--- END ---