

HOUSE BILL REPORT

HB 2648

As Reported by House Committee On: Commerce & Labor

Title: An act relating to unemployment insurance penalties and contribution rates for employers who are not "qualified employers".

Brief Description: Addressing unemployment insurance penalties and contribution rates for employers who are not "qualified employers."

Sponsors: Representatives Kenney, Conway, Green, Moeller, Williams, Simpson and White; by request of Employment Security Department.

Brief History:

Committee Activity:

Commerce & Labor: 1/13/10, 1/19/10 [DPS].

Brief Summary of Substitute Bill

- Modifies certain provisions of the unemployment insurance system for delinquent employers.
- Modifies the experience rated factor for delinquent employers.
- Reduces the experience rated factor by 0.5 percent for delinquent employers if they enter a deferred payment contract.
- Modifies the experience rated factor applicable if an employer fails to comply with the terms of the deferred payment contract.
- Subjects employers who knowingly fail to register with the Employment Security Department to a penalty and provides a good cause exemption to such penalty.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Conway, Chair; Wood, Vice Chair; Condotta, Ranking Minority Member; Chandler, Crouse, Green, Moeller and Williams.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Staff: Rebecca Jones (786-5793) and Jill Reinmuth (786-7134).

Background:

The unemployment compensation system, administered by the Employment Security Department (Department), allows partial wage replacement for workers who are unemployed through no fault of their own. Most employers pay contributions (payroll taxes) into a trust fund to finance the benefits eligible unemployed workers receive.

Tax Rates.

An employer's contribution rate consists of the experience rated factor, the social cost factor, and when the trust fund meets certain conditions, a solvency surcharge. (Currently, there is no solvency surcharge.)

The experience rated factor depends on the employer's rate class. An employer is assigned to one of 40 rate classes based on the employer's layoff experience. The tax rate for class 1 is 0.00 percent and the rate for class 40 is 5.40 percent, with the tax rates for classes 2 through 39 ranging from 0.11 percent to 5.30 percent.

The social cost factor is a percentage of costs not attributable to a specific employer (e.g., benefits paid to workers whose employer went out of business). A flat rate is calculated as the difference between benefits paid and taxes paid, divided by the total taxable payroll. The flat rate is then adjusted for the number of months of benefits in the trust fund, and a graduated rate is based on the employer's rate class.

Experience Rating for Delinquent Employers.

For employers who fail to pay contributions when due without an approved agency-deferred payment contract, the experience rated factor is the rate specified in class 40 plus 0.2 percent (5.6 percent).

If an employer with an approved payment contract fails to pay one of the deferred payments or fails to submit any succeeding tax report and payment in a timely fashion, the employer's experience rate reverts to the rate in class 40 plus 0.2 percent (5.6 percent).

Summary of Substitute Bill:

Certain provisions of the unemployment insurance system are modified for employers who fail to pay contributions when due including: (1) the experience rated factor for delinquent employers for rate years 2011 and thereafter; (2) the experience rated factor applicable if a payment contract is complied with; (3) the experience rated factor applicable if an employer fails to meet the terms of the payment contract; and (4) a penalty on the employer for a knowing failure to register with the Department.

Experience Rating for Delinquent Employers.

For rate years 2011 and thereafter, the experience rated factor for a delinquent employer is the rate it would have been had the employer not been delinquent plus an additional 1 percent. If the employer is delinquent for two or more consecutive years, the rate is what it would have been had the employer not been delinquent plus an additional 2 percent.

Reduction of Rate Due to Payment Contract.

For rate years 2011 and thereafter, if the delinquent employer enters an approved agency-deferred payment contract after September 30 of the previous rate year, but within the specified time frame, the experience rated factor will be the rate it would have been had the employer not been delinquent in payment plus an additional 0.5 percent, or if the employer is delinquent in payment for a second or more consecutive years, an additional 1.5 percent.

Failure to Comply with the Payment Contract.

If an employer enters a deferred payment contract, but fails to make any of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely fashion, the experience rated factor immediately reverts to the rate it would have been had the employer not been delinquent in payment plus an additional 1 percent, or if the employer is delinquent in payment for a second or more consecutive years, an additional 2 percent.

Penalty for Knowingly Failing to Register.

Beginning January 1, 2011, an employer who knowingly fails to register with the Department and obtain an employment security account number is subject to a penalty of not more than \$1,000 per quarter or twice the taxes due per quarter, whichever is greater. The penalty does not apply if the employer can show good cause to believe that it did not have to register with the Department.

Substitute Bill Compared to Original Bill:

Separate provisions apply to rate years through 2010 and rate years 2011 and thereafter. The provisions are restructured based on the rate owed by a delinquent employer. The experience rated factor reverts to the rate it would have been had the employer not been delinquent plus 1 or 2 percent for any employer who enters a deferred payment contract, but fails to comply with the terms of the agreement.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, relating to a penalty for knowingly failing to register, which takes effect January 1, 2011.

Staff Summary of Public Testimony:

(In support) It is important to find ways to boost the economy and help employers who are having difficulty paying their unemployment compensation contributions. It is important that the bill creates incentives for entering payment contracts so that employers do not give up, particularly for small businesses. The penalty for those that do not register helps other businesses not to suffer. This is a good bill.

(Opposed) It seems that the array moved without legislative oversight and that is concerning. Usually when the rates are recalculated, the new rates are not favorable, especially in this economic climate. It is complicated for individuals to calculate their rates.

Persons Testifying: (In support) Representative Kenney, prime sponsor.

(Opposed) Jeff Kirby, Washington State Security Council.

Persons Signed In To Testify But Not Testifying: None.