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## Commerce & Labor Committee

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### SSB 5963

**Brief Description:** Regarding unemployment insurance.

**Sponsors:** Senate Committee on Labor, Commerce & Consumer Protection (originally sponsored by Senators Kohl-Welles, Holmquist, King, Honeyford, Keiser, Franklin, Kline, Hewitt, Marr, Parlette, McCaslin, Schoesler and Morton).

#### Brief Summary of Substitute Bill

- Limits permissible reasons for voluntary quits to those listed in state law.
- Modifies the "quit to follow" provision.
- Specifies that the "pay at two, charge at four" provision does not apply for rate year 2010 and thereafter.
- Reduces most contribution rates paid by qualified employers.

**Hearing Date:** 3/18/09

**Staff:** Jill Reinmuth (786-7134)

#### **Background:**

The unemployment compensation system is designed and intended to provide partial wage replacement for workers who are unemployed through no fault of their own. Eligible unemployed workers receive benefits based on their earnings in their base year. Most covered employers pay contributions (payroll taxes) to finance benefits. The Employment Security Department (Department) administers this system.

#### Voluntary Quits

An individual is eligible to receive regular unemployment insurance benefits if he or she:  
(1) worked at least 680 hours in his or her base year; (2) was separated from employment

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*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.*

through no fault of his or her own, or quit work for reasons listed in state law or for good cause; and (3) is able to work and is actively searching for work.

An individual is not disqualified from benefits if he or she quit work for one of 11 reasons listed in state law, including relocating for the spouse's mandatory military transfer. This reason for leaving work is commonly referred to as "quit to follow."

An individual also is not disqualified if he or she quit work for good cause. Pursuant to the Washington Supreme Court's decision in *Spain v. Employment Security Department* (consolidated with *Batey v. Employment Security Department*), the Commissioner of the Department has discretion to find that reasons not listed in state law are good cause for leaving work.

### Federal Stimulus Act

The federal American Recovery and Reinvestment Act of 2009 provides up to \$7 billion for modernization incentive payments to states that meet certain requirements. One-third of the incentive payment is contingent on state law providing for an alternative base period. Two-thirds is contingent on state law providing for at least two of the following:

- No denial of benefits to part-time workers seeking only part-time work;
- No disqualification from benefits for separating from employment for compelling family reasons, including domestic violence, an immediate family member's illness or disability, and the need to accompany a spouse to a place from which it is impractical to commute due to a change in the location of the spouse's employment;
- Continuation of weekly benefits for exhaustees in state-approved training; and
- Dependents' allowances of at least \$15 per dependent per week.

### Experience Rating

An employer's layoff experience is measured by the amount of benefits charged to the employer's account. Benefits are paid based on the individual's wages in the two quarters of the base year in which wages were highest ("two-quarter averaging"). The difference between benefits paid to an individual and benefits that would have been paid based on the individual's wages in all four quarters of the base year ("four-quarter averaging") is noncharged. This provision is generally referred to as "pay at two, charge at four."

In 2006 the federal Department of Labor informed the state Employment Security Department that the "pay at two, charge at four" provision is out of conformity with the federal law that requires tax rates to reflect benefit payments. Without certification from the federal Secretary of Labor that state law conforms to federal law, employers may not receive certain federal unemployment tax credits.

### Tax Rates

An employers contribution rate includes an experience rated factor, a social cost factor, and when the balance in the unemployment insurance trust fund meets certain conditions, a solvency surcharge. (There is currently no solvency surcharge.)

The experience rated factor (or "array calculation factor") is based on the employer's rate class. An employer is assigned to one of 40 rate classes depending on the employer's layoff experience. For rate classes 1 and 40, the rates are 0.00 percent and 5.40 percent. For rate classes 2 through 39, the rates range from 0.13 percent to 5.35 percent.

The social cost factor is a percentage of costs not directly charged to an employer. A flat rate is calculated as the difference between benefits paid and taxes paid, divided by total taxable payroll. The flat rate is then adjusted for months of benefits in the trust fund as follows:

<u>Months of Benefits</u>		<u>Minimum Flat Rate</u>
<u>At Least</u>	<u>Less Than</u>	
	12	0.6 percent
12	14	0.5 percent
14		0.45 for rate class 1, and 0.5 for other rate classes

A graduated rate, ranging from 78 percent to 120 percent of the flat rate, is based on the employer's rate class.

The sum of the experience rated factor and the social cost factor may not exceed 6.5 percent. This sum is capped at 5.7 percent for certain seasonal industries (agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage).

**Summary of Bill:**

Certain provisions of the employment compensation system are modified, including voluntary quits, experience rating, and tax rates.

Voluntary Quits

An individual has good cause and is not disqualified from benefits if he or she quit work for one of 11 reasons listed in state law, but not for other reasons.

The reason commonly referred to as "quit-to-follow" is modified. An individual is not disqualified from receiving benefits if the individual leaves work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move.

Experience Rating

The "pay at two, charge at four" provision does not apply to the calculation of contribution rates for rate year 2010 and thereafter. As a result, benefits are paid to claimants and charged to employers using two-quarter averaging.

## Tax Rates

The experience rated factor (or "array calculation factor") is reduced for most rate classes for rate year 2010 and thereafter. For rate classes 1 and 40, the rates remain at 0.00 percent and 5.40 percent. For rate classes 2 through 39, the rates are reduced by .02 percent to .05 percent, resulting in rates from 0.11 percent to 5.30 percent.

The flat social cost factor rate is adjusted for months of benefits in the trust fund as follows:

<u>Months of Benefits</u>		<u>Minimum Flat Rate</u>
<u>At Least</u>	<u>Less Than</u>	
	10	0.6 percent
10	11	0.5 percent
11	12	0.45 percent
12	13	0.4 percent
13	15	0.35 percent
15	17	0.25 percent
17	18	0.15 percent
18		0.15 percent through 2011, and zero thereafter

The cap on the sum of the experience rated factor and the social cost factor is reduced to 6.0 percent. The cap on the sum for certain seasonal industries (agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage) is reduced to 5.4 percent.

Obsolete provisions are deleted.

**Rules Authority:** The bill does not address the rule-making powers of an agency.

**Appropriation:** None.

**Fiscal Note:** Available for original Senate bill. New fiscal note for substitute Senate bill requested on 3/13/09.

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