

# FINAL BILL REPORT

## SSB 5963

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Synopsis as Enacted

**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).

**Senate Committee on Labor, Commerce & Consumer Protection**  
**House Committee on Commerce & Labor**

**Background:** Conformity. In 2006 the federal Department of Labor informed the Employment Security Department (ESD) that a provision of Washington law is out of conformity with federal unemployment insurance laws. The state provision in question governs the way unemployment benefits are paid and charged back to the employer. Unemployment benefits are calculated based on a percentage of how much a claimant earned in the two quarters of the base year in which the claimant earned the most money. Benefits are charged to the employer based on the worker's wages in all four quarters of the base year, not just the two quarters in which the claimant earned the most money. This process is commonly known as "pay at 2, charge at 4." In the "pay at 2, charge at 4" system, the amount of benefits paid out doesn't necessarily match the amount of benefits charged back to an employer. The difference between benefits paid out and benefits charged back to an employer is spread across all employers as a social cost. The federal government believes "pay at 2, charge at 4" is out of conformity because federal law requires that unemployment tax rates reflect actual benefits paid.

Employer Contributions. The total amount of unemployment insurance (UI) contributions or taxes paid by an employer includes an experience rated tax and a social tax. The experience rated tax is determined based on an employer's benefit ratio and falls into one of 40 rate classes ranging from 0.0 percent in rate class 1 to 5.40 percent in rate class 40. The social tax covers social costs and is calculated using the flat social cost factor, which is then graduated based on the employer's rate class. The flat social cost factor is 0.6 percent, and varies depending on the number of months of benefits in the UI trust fund. If there are 12 to 14 months of benefits, the flat social cost factor is 0.5 percent, and if there are more than 14 months then the flat social cost factor is 0.45 percent for employers in rate class 1. The combined social tax and experience rated tax is capped at 5.7 percent for certain agriculture,

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forestry, and fishing employers and at 6.5 percent for all other contribution paying employers.

Voluntary Quits. An individual is disqualified from UI benefits if the individual left work voluntarily without good cause. State law specifies 11 good cause quit provisions. In 2008 the state Supreme Court released its decision on the consolidated *Spain v. ESD* and *Batey v. ESD* cases. The court found that the state's good cause quit statute is ambiguous, and that the 11 listed good cause quit provisions are not an exclusive list. Rather, the court found that an individual who left work without good cause can collect benefits if compelling personal reasons created good cause to leave employment as determined by ESD.

Extended Benefits. Extended benefits are additional benefits that are available during periods of high unemployment in the state. Washington state triggered onto extended benefits February 15, 2009. An individual who has exhausted emergency unemployment compensation (EUC) benefits during an extended benefit period can receive up to 13 weeks of benefits under the extended benefit program; however, at least one week of an extended benefit period must fall within an individual's benefit year in order to be eligible for extended benefits. An individual may not exhaust his or her EUC benefits until after his or her benefit year has ended, making the individual ineligible for extended benefits.

**Summary:** Conformity. UI benefits are charged back to employers in the same amount that benefits are paid out ("pay at 2, charge at 4" is changed to "pay at 2, charge at 2").

Employer Contributions. Beginning with rate year 2010, the experience rated taxes for rate classes 2 through 39 are reduced by 0.02 percent to 0.05 percent depending on the specific rate class. The flat social cost factor adjusts depending on the months of benefits in the trust fund as follows:

Months of benefits in trust fund	Flat social cost factor
10-11	0.5 percent
11-12	0.4 percent
13-15	0.35 percent
15-17	0.25 percent
17-18	0.15 percent
18+	0.15 percent through rate year 2010 and 0 percent thereafter.

The combined social tax and experience rated tax is capped at 5.4 percent for certain agriculture, forestry, and fishing employers and at 6.0 percent for all other contribution paying employers.

Voluntary Quits. An individual has good cause and is not disqualified from UI benefits only if the individual quit for one of the specified reasons listed in statute. An additional good cause quit provision is established for individuals who left 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 moving.

Extended Benefits. The eligibility period for extended benefits is modified for individuals who are eligible for EUC starting when extended benefits triggered on February 15, 2009.

**Votes on Final Passage:**

Senate	38	11	
House	53	45	(House amended)
Senate			(Senate concurred in part)
House	71	25	(House receded)
Senate	46	0	(Senate concurred)

**Effective:** May 14, 2009 (Section 4)  
July 26, 2009