
HOUSE BILL 2236

State of Washington 61st Legislature 2009 Regular Session

By Representatives Condotta, Chandler, Crouse, Kelley, and Kristiansen

Read first time 02/17/09. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to providing relief from unemployment contribution
2 payments; amending RCW 50.29.025; creating a new section; providing an
3 expiration date; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 50.29.025 and 2007 c 51 s 1 are each amended to read
6 as follows:

7 (1) Except as provided in subsection (2) of this section, the
8 contribution rate for each employer subject to contributions under RCW
9 50.24.010 shall be determined under this subsection.

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

18 (b) The interval of the fund balance ratio, expressed as a
19 percentage, shall determine which tax schedule in (e) of this

1 subsection shall be in effect for assigning tax rates for the rate
2 year. The intervals for determining the effective tax schedule shall
3 be:

4	Interval of the	
5	Fund Balance Ratio	Effective
6	Expressed as a Percentage	Tax Schedule
7	2.90 and above	AA
8	2.10 to 2.89	A
9	1.70 to 2.09	B
10	1.40 to 1.69	C
11	1.00 to 1.39	D
12	0.70 to 0.99	E
13	Less than 0.70	F

14 (c) An array shall be prepared, listing all qualified employers in
15 ascending order of their benefit ratios. The array shall show for each
16 qualified employer: (i) Identification number; (ii) benefit ratio;
17 (iii) taxable payrolls for the four calendar quarters immediately
18 preceding the computation date and reported to the department by the
19 cut-off date; (iv) a cumulative total of taxable payrolls consisting of
20 the employer's taxable payroll plus the taxable payrolls of all other
21 employers preceding him or her in the array; and (v) the percentage
22 equivalent of the cumulative total of taxable payrolls.

23 (d) Each employer in the array shall be assigned to one of twenty
24 rate classes according to the percentage intervals of cumulative
25 taxable payrolls set forth in (e) of this subsection: PROVIDED, That
26 if an employer's taxable payroll falls within two or more rate classes,
27 the employer and any other employer with the same benefit ratio shall
28 be assigned to the lowest rate class which includes any portion of the
29 employer's taxable payroll.

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

	Percent of										
	Cumulative			Schedules of Contributions Rates							
	Taxable Payrolls			for Effective Tax Schedule							
	Rate										
	From	To Class	AA	A	B	C	D	E	F		
7	0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47	
8	5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67	
9	10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87	
10	15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98	
11	20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08	
12	25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18	
13	30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27	
14	35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47	
15	40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66	
16	45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86	
17	50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95	
18	55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15	
19	60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34	
20	65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54	
21	70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63	
22	75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73	
23	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97	
24	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17	
25	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37	
26	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40	

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

29 (i) Employers who do not meet the definition of "qualified
30 employer" by reason of failure to pay contributions when due shall be
31 assigned a contribution rate two-tenths higher than that in rate class
32 20 for the applicable rate year, except employers who have an approved
33 agency-deferred payment contract by September 30 of the previous rate
34 year. If any employer with an approved agency-deferred payment
35 contract fails to make any one of the succeeding deferred payments or
36 fails to submit any succeeding tax report and payment in a timely
37 manner, the employer's tax rate shall immediately revert to a
38 contribution rate two-tenths higher than that in rate class 20 for the
39 applicable rate year; and

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

5 (2) Beginning with contributions assessed for rate year 2005, the
6 contribution rate for each employer subject to contributions under RCW
7 50.24.010 shall be the sum of the array calculation factor rate and the
8 graduated social cost factor rate determined under this subsection, and
9 the solvency surcharge determined under RCW 50.29.041, if any.

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

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

18 (ii) Each employer in the array shall be assigned to one of forty
19 rate classes according to his or her benefit ratio as follows, and,
20 except as provided in RCW 50.29.026 and (a)(iii) and (iv) of this
21 subsection, the array calculation factor rate for each employer in the
22 array shall be the rate specified in the rate class to which the
23 employer has been assigned:

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30

1	0.012500	0.013750	12	1.45
2	0.013750	0.015000	13	1.60
3	0.015000	0.016250	14	1.75
4	0.016250	0.017500	15	1.90
5	0.017500	0.018750	16	2.05
6	0.018750	0.020000	17	2.20
7	0.020000	0.021250	18	2.35
8	0.021250	0.022500	19	2.50
9	0.022500	0.023750	20	2.65
10	0.023750	0.025000	21	2.80
11	0.025000	0.026250	22	2.95
12	0.026250	0.027500	23	3.10
13	0.027500	0.028750	24	3.25
14	0.028750	0.030000	25	3.40
15	0.030000	0.031250	26	3.55
16	0.031250	0.032500	27	3.70
17	0.032500	0.033750	28	3.85
18	0.033750	0.035000	29	4.00
19	0.035000	0.036250	30	4.15
20	0.036250	0.037500	31	4.30
21	0.037500	0.040000	32	4.45
22	0.040000	0.042500	33	4.60
23	0.042500	0.045000	34	4.75
24	0.045000	0.047500	35	4.90
25	0.047500	0.050000	36	5.05
26	0.050000	0.052500	37	5.20
27	0.052500	0.055000	38	5.30
28	0.055000	0.057500	39	5.35
29	0.057500		40	5.40

30 (iii) For the second quarter of rate year 2009, the array
31 calculation factor rate shall be: (A) 5.40 for employers in the array
32 with a benefit ratio of at least 1.0; and (B) zero for other employers
33 in the array.

34 (iv) For the third quarter of rate year 2009, but only for
35 employers who have no net layoffs in the second quarter of rate year
36 2009, the array calculation factor rate shall be: (A) 5.40 for

1 employers in the array with a benefit ratio of at least 1.0; and (B)
2 zero for other employers in the array.

3 (b) The graduated social cost factor rate shall be determined as
4 follows:

5 (i)(A) Except as provided in (b)(i)(B) (~~and (C)~~) through (E) of
6 this subsection, the commissioner shall calculate the flat social cost
7 factor for a rate year by dividing the total social cost by the total
8 taxable payroll. The division shall be carried to the second decimal
9 place with the remaining fraction disregarded unless it amounts to five
10 hundredths or more, in which case the second decimal place shall be
11 rounded to the next higher digit. The flat social cost factor shall be
12 expressed as a percentage.

13 (B) Except as provided in (b)(i)(D) and (E) of this subsection, if,
14 on the cut-off date, the balance in the unemployment compensation fund
15 is determined by the commissioner to be an amount that will provide
16 more than ten months of unemployment benefits, the commissioner shall
17 calculate the flat social cost factor for the rate year immediately
18 following the cut-off date by reducing the total social cost by the
19 dollar amount that represents the number of months for which the
20 balance in the unemployment compensation fund on the cut-off date will
21 provide benefits above ten months and dividing the result by the total
22 taxable payroll. However, the calculation under this subsection
23 (2)(b)(i)(B) for a rate year may not result in a flat social cost
24 factor that is more than four-tenths lower than the calculation under
25 (b)(i)(A) of this subsection for that rate year.

26 For the purposes of this subsection, the commissioner shall
27 determine the number of months of unemployment benefits in the
28 unemployment compensation fund using the benefit cost rate for the
29 average of the three highest calendar benefit cost rates in the twenty
30 consecutive completed calendar years immediately preceding the cut-off
31 date or a period of consecutive calendar years immediately preceding
32 the cut-off date that includes three recessions, if longer.

33 (C) Except as provided in (b)(i)(D) and (E) of this subsection, the
34 minimum flat social cost factor calculated under this subsection (2)(b)
35 shall be six-tenths of one percent, except that if the balance in the
36 unemployment compensation fund is determined by the commissioner to be
37 an amount that will provide:

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

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

7 (D) For the second quarter of rate year 2009, the flat social cost
8 factor shall be zero.

9 (E) For the third quarter of rate year 2009, but only for employers
10 who have no net layoffs in the second quarter of rate year 2009, the
11 flat social cost factor shall be zero.

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

23 (I) Rate class 1 - 78 percent;

24 (II) Rate class 2 - 82 percent;

25 (III) Rate class 3 - 86 percent;

26 (IV) Rate class 4 - 90 percent;

27 (V) Rate class 5 - 94 percent;

28 (VI) Rate class 6 - 98 percent;

29 (VII) Rate class 7 - 102 percent;

30 (VIII) Rate class 8 - 106 percent;

31 (IX) Rate class 9 - 110 percent;

32 (X) Rate class 10 - 114 percent;

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

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

35 (B) For contributions assessed beginning July 1, 2005, through
36 December 31, 2007, for employers whose North American industry
37 classification system code is "111," "112," "1141," "115," "3114,"

1 "3117," "42448," or "49312," the graduated social cost factor rate is
2 zero.

3 (iii) For the purposes of this section:

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

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

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

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

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

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

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

35 (A) The array calculation factor rate shall be a rate equal to the
36 average industry array calculation factor rate as determined by the
37 commissioner, plus fifteen percent of that amount; however, the rate

1 may not be less than one percent or more than the array calculation
2 factor rate in rate class 40; and

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

8 (ii) Beginning with contributions assessed for rate year 2008:

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

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

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

	History		History
	Ratio		Factor
			(percent)
32			
33			
34			
35	At least	Less than	
36	(I)	.95	90

1	(II)	.95	1.05	100
2	(III)	1.05		115

3 (3) Assignment of employers by the commissioner to industrial
4 classification, for purposes of this section, shall be in accordance
5 with established classification practices found in the "Standard
6 Industrial Classification Manual" issued by the federal office of
7 management and budget to the third digit provided in the standard
8 industrial classification code, or in the North American industry
9 classification system code.

10 NEW SECTION. **Sec. 2.** If any part of this act is found to be in
11 conflict with federal requirements that are a prescribed condition to
12 the allocation of federal funds to the state or the eligibility of
13 employers in this state for federal unemployment tax credits, the
14 conflicting part of this act is inoperative solely to the extent of the
15 conflict, and the finding or determination does not affect the
16 operation of the remainder of this act. Rules adopted under this act
17 must meet federal requirements that are a necessary condition to the
18 receipt of federal funds by the state or the granting of federal
19 unemployment tax credits to employers in this state.

20 NEW SECTION. **Sec. 3.** If any provision of this act or its
21 application to any person or circumstance is held invalid, the
22 remainder of the act or the application of the provision to other
23 persons or circumstances is not affected.

24 NEW SECTION. **Sec. 4.** This act expires December 31, 2009.

25 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
26 preservation of the public peace, health, or safety, or support of the
27 state government and its existing public institutions, and takes effect
28 immediately.

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