
HOUSE BILL 3103

State of Washington 61st Legislature 2010 Regular Session

By Representative Anderson

Read first time 01/25/10. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to providing hiring incentives to employers by
2 reducing unemployment taxes; amending RCW 50.16.010; reenacting and
3 amending RCW 50.29.025; and creating a new section.

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

5 **Sec. 1.** RCW 50.29.025 and 2009 c 493 s 2 and 2009 c 3 s 14 are
6 each reenacted and amended to read as follows:

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

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

14 ~~(i) 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: (A) Identification number; (B) benefit ratio; and~~
17 ~~(C) taxable payrolls for the four consecutive calendar quarters~~
18 ~~immediately preceding the computation date and reported to the~~
19 ~~employment security department by the cut-off date.~~

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

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

1	0.035000	0.036250	30	4.15
2	0.036250	0.037500	31	4.30
3	0.037500	0.040000	32	4.45
4	0.040000	0.042500	33	4.60
5	0.042500	0.045000	34	4.75
6	0.045000	0.047500	35	4.90
7	0.047500	0.050000	36	5.05
8	0.050000	0.052500	37	5.20
9	0.052500	0.055000	38	5.30
10	0.055000	0.057500	39	5.35
11	0.057500		40	5.40

12 ~~(b) The graduated social cost factor rate shall be determined as~~
13 ~~follows:~~

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

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

34 ~~For the purposes of this subsection, the commissioner shall~~
35 ~~determine the number of months of unemployment benefits in the~~
36 ~~unemployment compensation fund using the benefit cost rate for the~~
37 ~~average of the three highest calendar benefit cost rates in the twenty~~

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

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

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

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

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

25 ~~(I) Rate class 1 — 78 percent;~~

26 ~~(II) Rate class 2 — 82 percent;~~

27 ~~(III) Rate class 3 — 86 percent;~~

28 ~~(IV) Rate class 4 — 90 percent;~~

29 ~~(V) Rate class 5 — 94 percent;~~

30 ~~(VI) Rate class 6 — 98 percent;~~

31 ~~(VII) Rate class 7 — 102 percent;~~

32 ~~(VIII) Rate class 8 — 106 percent;~~

33 ~~(IX) Rate class 9 — 110 percent;~~

34 ~~(X) Rate class 10 — 114 percent;~~

35 ~~(XI) Rate class 11 — 118 percent; and~~

36 ~~(XII) Rate classes 12 through 40 — 120 percent.~~

37 ~~(B) For contributions assessed beginning July 1, 2005, through~~
38 ~~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. To calculate the flat social cost factor for rate~~
16 ~~years 2010 and 2011, the forty five dollar increase paid as part of an~~
17 ~~individual's weekly benefit amount as provided in RCW 50.20.1201 shall~~
18 ~~not be considered for purposes of calculating the total unemployment~~
19 ~~benefits paid to claimants in the four consecutive calendar quarters~~
20 ~~immediately preceding the computation date.~~

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

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

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

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

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

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

3 ~~(A) The array calculation factor rate shall be a rate equal to the~~
4 ~~average industry array calculation factor rate as determined by the~~
5 ~~commissioner, plus fifteen percent of that amount; however, the rate~~
6 ~~may not be less than one percent or more than the array calculation~~
7 ~~factor rate in rate class 40; and~~

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

13 ~~(ii) For contributions assessed for rate years 2008 and 2009:~~

14 ~~(A) The array calculation factor rate shall be a rate equal to the~~
15 ~~average industry array calculation factor rate as determined by the~~
16 ~~commissioner, multiplied by the history factor, but not less than one~~
17 ~~percent or more than the array calculation factor rate in rate class~~
18 ~~40;~~

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

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

	History Ratio		History Factor (percent)
	At least	Less than	
(I)		.95	90
(II)	.95	1.05	100
(III)	1.05		115

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

14 ~~((a))~~ (ii) For contributions assessed in rate years 2011 and
15 2012:

16 (A) The contribution rate for employers that are subject to
17 contributions under RCW 50.24.010 and assigned to rate classes 1
18 through 39 shall be five-sixths of the sum of the array calculation
19 factor rate and the graduated social cost factor rate determined under
20 this subsection, and the solvency surcharge determined under RCW
21 50.29.041, if any.

22 (B) The contribution rate for employers that are subject to
23 contributions under RCW 50.24.010 and assigned to rate class 40 shall
24 be the sum of the full array calculation factor rate and five-sixths of
25 the graduated social cost factor rate determined under this subsection,
26 and five-sixths of the solvency surcharge determined under RCW
27 50.29.041, if any.

28 (C) On the fifteenth day of the second month of each calendar
29 quarter, an amount shall be transferred from the general fund into the
30 unemployment compensation fund. The amount shall equal one-sixth of
31 the total contributions that would have been assessed for the previous
32 calendar quarter if the contribution rate for employers was the sum of
33 the array calculation factor rate and the graduated social cost factor
34 rate determined under this subsection, and the solvency surcharge
35 determined under RCW 50.29.041, if any.

1 (iii) For contributions assessed in rate years 2013 and 2014:

2 (A) The contribution rate for employers that are subject to
3 contributions under RCW 50.24.010 and assigned to rate classes 1
4 through 39 shall be two-thirds of the sum of the array calculation
5 factor rate and the graduated social cost factor rate determined under
6 this subsection, and the solvency surcharge determined under RCW
7 50.29.041, if any.

8 (B) The contribution rate for employers that are subject to
9 contributions under RCW 50.24.010 and assigned to rate class 40 shall
10 be the sum of the full array calculation factor rate and two-thirds of
11 the graduated social cost factor rate determined under this subsection,
12 and two-thirds of the solvency surcharge determined under RCW
13 50.29.041, if any.

14 (C) On the fifteenth day of the second month of each calendar
15 quarter, an amount shall be transferred from the general fund into the
16 unemployment compensation fund. The amount shall equal one-third of
17 the total contributions that would have been assessed for the previous
18 calendar quarter if the contribution rate for employers was the sum of
19 the array calculation factor rate and the graduated social cost factor
20 rate determined under this subsection, and the solvency surcharge
21 determined under RCW 50.29.041, if any.

22 (iv) For contributions assessed in rate year 2015 and thereafter:

23 (A) The contribution rate for employers that are subject to
24 contributions under RCW 50.24.010 and assigned to rate classes 1
25 through 39 shall be one-half of the sum of the array calculation factor
26 rate and the graduated social cost factor rate determined under this
27 subsection, and the solvency surcharge determined under RCW 50.29.041,
28 if any.

29 (B) The contribution rate for employers that are subject to
30 contributions under RCW 50.24.010 and assigned to rate class 40 shall
31 be the sum of the full array calculation factor rate and one-half of
32 the graduated social cost factor rate determined under this subsection,
33 and one-half of the solvency surcharge determined under RCW 50.29.041,
34 if any.

35 (C) On the fifteenth day of the second month of each calendar
36 quarter, an amount shall be transferred from the general fund into the
37 unemployment compensation fund. The amount shall equal one-half of the
38 total contributions that would have been assessed for the previous

1 calendar quarter if the contribution rate for employers was the sum of
2 the array calculation factor rate and the graduated social cost factor
3 rate determined under this subsection, and the solvency surcharge
4 determined under RCW 50.29.041, if any.

5 (b) The array calculation factor rate shall be determined as
6 follows:

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

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

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
18		0.000001	1	0.00
19		0.000001	2	0.11
20	0.000001	0.001250	3	0.22
21	0.001250	0.002500	4	0.33
22	0.002500	0.003750	5	0.43
23	0.003750	0.005000	6	0.54
24	0.005000	0.006250	7	0.65
25	0.006250	0.007500	8	0.76
26	0.007500	0.008750	9	0.88
27	0.008750	0.010000	10	1.01
28	0.010000	0.011250	11	1.14
29	0.011250	0.012500	12	1.28
30	0.012500	0.013750	13	1.41
31	0.013750	0.015000	14	1.54
32	0.015000	0.016250	15	1.67
33	0.016250	0.017500	16	1.80
34	0.017500	0.018750	17	1.94
35	0.018750	0.020000		
36				

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

24 (~~(b)~~) (c) The graduated social cost factor rate shall be
25 determined as follows:

26 (i)(A) Except as provided in (~~(b)~~) (c)(i)(B) and (C) of this
27 subsection, the commissioner shall calculate the flat social cost
28 factor for a rate year by dividing the total social cost by the total
29 taxable payroll. The division shall be carried to the second decimal
30 place with the remaining fraction disregarded unless it amounts to five
31 hundredths or more, in which case the second decimal place shall be
32 rounded to the next higher digit. The flat social cost factor shall be
33 expressed as a percentage.

34 (B) If, on the cut-off date, the balance in the unemployment
35 compensation fund is determined by the commissioner to be an amount
36 that will provide more than ten months of unemployment benefits, the
37 commissioner shall calculate the flat social cost factor for the rate

1 year immediately following the cut-off date by reducing the total
2 social cost by the dollar amount that represents the number of months
3 for which the balance in the unemployment compensation fund on the cut-
4 off date will provide benefits above ten months and dividing the result
5 by the total taxable payroll. However, the calculation under this
6 subsection (~~((2)(b))~~) (1)(c)(i)(B) for a rate year may not result in a
7 flat social cost factor that is more than four-tenths lower than the
8 calculation under (~~((b))~~) (c)(i)(A) of this subsection for that rate
9 year.

10 For the purposes of this subsection, the commissioner shall
11 determine the number of months of unemployment benefits in the
12 unemployment compensation fund using the benefit cost rate for the
13 average of the three highest calendar benefit cost rates in the twenty
14 consecutive completed calendar years immediately preceding the cut-off
15 date or a period of consecutive calendar years immediately preceding
16 the cut-off date that includes three recessions, if longer.

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

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

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

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

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

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

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

1 (VII) At least eighteen months of unemployment benefits, the
2 minimum shall be fifteen hundredths of one percent through rate year
3 2011 and shall be zero thereafter.

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

- 13 (A) Rate class 1 - 78 percent;
- 14 (B) Rate class 2 - 82 percent;
- 15 (C) Rate class 3 - 86 percent;
- 16 (D) Rate class 4 - 90 percent;
- 17 (E) Rate class 5 - 94 percent;
- 18 (F) Rate class 6 - 98 percent;
- 19 (G) Rate class 7 - 102 percent;
- 20 (H) Rate class 8 - 106 percent;
- 21 (I) Rate class 9 - 110 percent;
- 22 (J) Rate class 10 - 114 percent;
- 23 (K) Rate class 11 - 118 percent; and
- 24 (L) Rate classes 12 through 40 - 120 percent.

25 (iii) For the purposes of this section:

26 (A) "Total social cost" means the amount calculated by subtracting
27 the array calculation factor contributions paid by all employers with
28 respect to the four consecutive calendar quarters immediately preceding
29 the computation date and paid to the employment security department by
30 the cut-off date from the total unemployment benefits paid to claimants
31 in the same four consecutive calendar quarters.

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

37 ~~((e))~~ (d) For employers who do not meet the definition of

1 "qualified employer" by reason of failure to pay contributions when
2 due:

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

12 (ii) The social cost factor rate shall be the social cost factor
13 rate assigned to rate class 40 under ~~((b))~~ (c)(ii) of this
14 subsection.

15 ~~((d))~~ (e) For all other employers not qualified to be in the
16 array:

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

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

27 (iii) The history factor shall be based on the total amounts of
28 benefits charged and contributions paid in the three fiscal years
29 ending prior to the computation date by employers not qualified to be
30 in the array, other than employers in ~~((e))~~ (d) of this subsection,
31 who were first subject to contributions in the calendar year ending
32 three years prior to the computation date. The commissioner shall
33 calculate the history ratio by dividing the total amount of benefits
34 charged by the total amount of contributions paid in this three-year
35 period by these employers. The division shall be carried to the second
36 decimal place with the remaining fraction disregarded unless it amounts
37 to five one-hundredths or more, in which case the second decimal place

1 shall be rounded to the next higher digit. The commissioner shall
2 determine the history factor according to the history ratio as follows:

	History		History
	Ratio		Factor
			(percent)
6	At least	Less than	
7	(A)	.95	90
8	(B)	.95	100
9	(C)	1.05	115

10 ~~((+3+))~~ (2) Assignment of employers by the commissioner to
11 industrial classification, for purposes of this section, shall be in
12 accordance with established classification practices found in the North
13 American industry classification system code.

14 **Sec. 2.** RCW 50.16.010 and 2009 c 564 s 946 are each amended to
15 read as follows:

16 (1) There shall be maintained as special funds, separate and apart
17 from all public moneys or funds of this state an unemployment
18 compensation fund, an administrative contingency fund, and a federal
19 interest payment fund, which shall be administered by the commissioner
20 exclusively for the purposes of this title, and to which RCW 43.01.050
21 shall not be applicable.

22 (2)(a) The unemployment compensation fund shall consist of:

23 (i) All contributions collected under RCW 50.24.010 and payments in
24 lieu of contributions collected pursuant to the provisions of this
25 title;

26 (ii) All amounts transferred from the general fund to the fund
27 pursuant to RCW 50.29.025;

28 (iii) Any property or securities acquired through the use of moneys
29 belonging to the fund;

30 ~~((+iii+))~~ (iv) All earnings of such property or securities;

31 ~~((+iv+))~~ (v) Any moneys received from the federal unemployment
32 account in the unemployment trust fund in accordance with Title XII of
33 the social security act, as amended;

1 (~~(v)~~) (vi) All money recovered on official bonds for losses
2 sustained by the fund;

3 (~~(vi)~~) (vii) All money credited to this state's account in the
4 unemployment trust fund pursuant to section 903 of the social security
5 act, as amended;

6 (~~(vii)~~) (viii) All money received from the federal government as
7 reimbursement pursuant to section 204 of the federal-state extended
8 compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304); and

9 (~~(viii)~~) (ix) All moneys received for the fund from any other
10 source.

11 (b) All moneys in the unemployment compensation fund shall be
12 commingled and undivided.

13 (3)(a) Except as provided in (b) of this subsection, the
14 administrative contingency fund shall consist of:

15 (i) All interest on delinquent contributions collected pursuant to
16 this title;

17 (ii) All fines and penalties collected pursuant to the provisions
18 of this title;

19 (iii) All sums recovered on official bonds for losses sustained by
20 the fund; and

21 (iv) Revenue received under RCW 50.24.014.

22 (b) All fees, fines, forfeitures, and penalties collected or
23 assessed by a district court because of the violation of this title or
24 rules adopted under this title shall be remitted as provided in chapter
25 3.62 RCW.

26 (c) Except as provided in (d) of this subsection, moneys available
27 in the administrative contingency fund, other than money in the special
28 account created under RCW 50.24.014, shall be expended upon the
29 direction of the commissioner, with the approval of the governor,
30 whenever it appears to him or her that such expenditure is necessary
31 solely for:

32 (i) The proper administration of this title and that insufficient
33 federal funds are available for the specific purpose to which such
34 expenditure is to be made, provided, the moneys are not substituted for
35 appropriations from federal funds which, in the absence of such moneys,
36 would be made available.

37 (ii) The proper administration of this title for which purpose

1 appropriations from federal funds have been requested but not yet
2 received, provided, the administrative contingency fund will be
3 reimbursed upon receipt of the requested federal appropriation.

4 (iii) The proper administration of this title for which compliance
5 and audit issues have been identified that establish federal claims
6 requiring the expenditure of state resources in resolution. Claims
7 must be resolved in the following priority: First priority is to
8 provide services to eligible participants within the state; second
9 priority is to provide substitute services or program support; and last
10 priority is the direct payment of funds to the federal government.

11 (d)(i) During the 2007-2009 fiscal biennium, moneys available in
12 the administrative contingency fund, other than money in the special
13 account created under RCW 50.24.014(1)(a), shall be expended as
14 appropriated by the legislature for: (A) The cost of the job skills or
15 worker retraining programs at the community and technical colleges and
16 administrative costs at the state board for community and technical
17 colleges; and (B) reemployment services such as business and project
18 development assistance, local economic development capacity building,
19 and local economic development financial assistance at the department
20 of (~~community, trade, and economic development~~) commerce. The
21 remaining appropriation may be expended as specified in (c) of this
22 subsection.

23 (ii) During the 2009-2011 fiscal biennium, moneys available in the
24 administrative contingency fund, other than money in the special
25 account created under RCW 50.24.014(1)(a), shall be expended by the
26 department of social and health services as appropriated by the
27 legislature for employment and training services and programs in the
28 WorkFirst program, and for the administrative costs of state agencies
29 participating in the WorkFirst program. The remaining appropriation
30 may be expended as specified in (c) of this subsection.

31 (4) Money in the special account created under RCW 50.24.014(1)(a)
32 may only be expended, after appropriation, for the purposes specified
33 in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014,
34 50.44.053, and 50.22.010.

35 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
36 conflict with federal requirements that are a prescribed condition to
37 the allocation of federal funds to the state or the eligibility of

1 employers in this state for federal unemployment tax credits, the
2 conflicting part of this act is inoperative solely to the extent of the
3 conflict, and the finding or determination does not affect the
4 operation of the remainder of this act. Rules adopted under this act
5 must meet federal requirements that are a necessary condition to the
6 receipt of federal funds by the state or the granting of federal
7 unemployment tax credits to employers in this state.

8 NEW SECTION. **Sec. 4.** If any provision of this act or its
9 application to any person or circumstance is held invalid, the
10 remainder of the act or the application of the provision to other
11 persons or circumstances is not affected.

--- END ---