

# SENATE BILL REPORT

## EHB 1091

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As of Second Reading

**Title:** An act relating to modifying the unemployment insurance program.

**Brief Description:** Modifying the unemployment insurance program.

**Sponsors:** Representatives Sells, Reykdal and Kenney; by request of Governor Gregoire.

**Brief History:** Passed House: 2/09/11, 98-0.

**Committee Activity:**

### Brief Summary of Engrossed Bill

- Provides \$25 temporary benefit increase;
- Permanently caps social cost factor and reduces multipliers used to graduate social cost rates;
- Allows the continued payment of extended benefits by authorizing the state to use a three year look-back; and
- Amends the training benefits program in order to qualify for UI modernization incentive payments.

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**Staff:** Mac Nicholson (786-7445)

**Background:** Unemployment Insurance Taxes. 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 layoff experience and falls into one of 40 rate classes. The social tax component covers social costs, or costs resulting from the payment of benefits to an individual that are not charged to a specific employer. The social tax is calculated using the flat social cost factor, which is graduated for each employer based on the employer's rate class. Employers in rate class 1 have no layoff experience and only pay a social tax which was 0.95 percent in 2010 and is 1.33 percent in 2011. The total tax rate is capped at 6 percent, and in 2010 employers in rate classes 35 through 40 capped out. In 2011 employers in rate classes 32 through 40 will cap out.

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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.*

The state, and any political subdivisions and qualified nonprofit corporations that have elected to do so, make payments in lieu of UI contributions and are known as reimbursable employers. Reimbursable employers pay dollar for dollar on all UI benefits paid to former employees.

Extended Benefits Program. An individual who has exhausted his or her regular unemployment benefits and emergency unemployment compensation benefits can receive up to 20 additional weeks of benefits under the extended benefits program. The extended benefits program triggers on during periods of high unemployment when unemployment rates hit certain levels as compared to rates in a two-year look-back period. The first 13 weeks of extended benefits trigger on when the unemployment rate averages at least 6.5 percent over the last three months and is at least 10 percent higher than the same three-month average in either of the previous two years. The remaining seven weeks of extended benefits trigger on when the unemployment rate averages at least 8 percent and is 10 percent higher than in either of the previous two years. Washington triggered on the first 13 weeks in February 2009 and the remaining seven weeks in May 2009. Extended benefits are expected to trigger off in the spring of 2011, as the two-year look-back will include unemployment rates from 2009 and 2010.

Extended benefit costs are generally shared equally by the state and federal government; however, the federal government has paid the full cost of extended benefits since Washington triggered on in 2009. The federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 authorized the federal government to continue to pay the full cost of extended benefits through 2011, provided the extended benefits program doesn't trigger off. The federal legislation authorized states to use a three-year look-back in 2011 rather than a two-year look-back to prevent the extended benefits program from triggering off.

UI Modernization. UI modernization incentive payments are available for qualifying states under the federal American Recovery and Reinvestment Act of 2009. Washington received one-third of the incentive payment, approximately \$49 million, but has not qualified to receive the other two-thirds of the incentive payment. In order to qualify for the remaining two-thirds, state law must provide 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 certain compelling family reasons;
- continuation of weekly benefits for exhaustees in state-approved training; or
- dependents' allowances of at least \$15 per dependent per week.

States must apply to receive UI modernization payments by August 22, 2011.

Training Benefits Program. Training benefits are additional UI benefits paid to workers who have lost their job and are attending an approved full-time vocational training program. The total training benefit amount is 52 times the weekly benefit amount, minus any regular UI or extended benefits paid. Training benefits are not charged to an employer's experience rating. Training benefits are subject to available funding from the UI trust fund, and funding is capped at \$20 million per fiscal year. Funds not obligated may be carried forward to the next fiscal year.

An individual may qualify for the training benefits program once every five years, and to be eligible an individual must:

- be eligible to receive or have exhausted regular UI benefits;
- be either a dislocated worker, a low-income worker, a disabled worker, honorably discharged from the military or National Guard, or currently serving in the National Guard;
- have sufficient tenure in an occupation or in work with a particular skill set;
- have been determined to need job-related training in order to find suitable employment in his or her labor market;
- submit a training program application within 90 days of notification of training benefit availability;
- enroll in the training program on a full-time basis within 120 days of notification of training benefit availability; and
- make satisfactory progress in the training as certified by the educational institution.

An individual is considered to be a dislocated worker when the individual has been terminated from employment, is eligible for or has exhausted UI benefits, and is unlikely to return to employment in his or her principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry.

An individual in a training program who receives remuneration will have his or her weekly benefit reduced by 75 percent of the amount of remuneration in excess of \$5.

Eligibility Periods. For an individual who is in the training benefits program, training benefits are payable for up to two years beyond the end of the benefit year of the regular claim.

For an individual who is eligible for emergency unemployment compensation, the eligibility period for extended benefits is defined as the period consisting of the week ending February 28, 2009, through the week ending May 29, 2010.

**Summary of Bill:** Temporary Benefit Increase. For claims with an effective date on or after March 6, 2011, and before November 6, 2011, an additional \$25 is added to the weekly benefit amount. The \$25 benefit is payable for all weeks of regular, extended, emergency, supplemental, or additional benefits on that claim, and weekly maximum and minimum amounts payable are adjusted accordingly. When the total amount of temporary benefit increases paid out of the state UI trust fund equals \$68 million, payment of the temporary benefit stops, and the maximum and minimum amounts payable are adjusted accordingly. The \$25 temporary benefit is a socialized cost and is not charged to the experience rating account of any contribution paying employers.

For fiscal year 2012 and 2013, if UI modernization money is credited to the state UI trust fund, \$68 million of the modernization money is requisitioned to pay regular benefits.

The \$25 temporary benefit is not included when determining income, eligibility, copayment, or premium share for the following programs:

- working connections child care program;

- basic health plan; and
- apple health for kids.

Unemployment Insurance Taxes. Starting in rate year 2011, the flat social cost factor is capped at 1.22 percent. If there are ten or fewer months of benefits in the UI trust fund, then the flat social cost factor for the following rate year cannot increase by more than 50 percent over the previous rate year, or may not exceed 1.22 percent, whichever is greater. The graduated rate is lowered for employers in rate classes 1 through 20 (from 78 percent through 120 percent to 40 percent through 116 percent).

The \$25 temporary benefit is not to be used when determining the number of months of benefits in the UI trust fund or the total benefits paid as part of the social tax calculation.

Extended Benefits Program. For 2011, the two-year look-back period used to determine whether extended benefits are paid is changed to a three-year look-back period.

Training Benefits Program. Changes are made to the training benefits program for claims with an effective date on or after July 1, 2012. The definition of dislocated worker is amended. A dislocated worker is one who has exhausted his or her entitlement to UI benefits and been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at his or her place of employment or has separated from a declining occupation.

Training benefit program eligibility is modified for dislocated workers as follows:

- the 90 and 120 day deadlines are eliminated;
- the full-time training requirement is eliminated; and
- the prohibition on receiving training benefits more than once every five years is eliminated.

The maximum amount of training benefits is reduced only by regular UI benefits paid, rather than by regular and extended benefits paid. The reduction for remuneration paid is changed, so that an individual's weekly benefit is reduced by 50 percent (instead of 75 percent) of the amount of any remuneration paid in excess of \$5. Once an individual's training plan has been approved, regular benefits paid to the individual are not charged to the experience rating account of any employer.

If the total amount available for training benefit funding is equal to or less than \$5 million, training benefits are not obligated for low-wage workers, military personnel, National Guard members, and persons who are disabled. If funds are exhausted, training benefits are obligated to dislocated workers only, and available funding for the following year is reduced by a corresponding amount.

Eligibility Periods. The period during which training benefits are payable is extended. For individuals who are eligible for extended benefits because of the three-year look-back period, training benefits are payable for up to three years beyond the end of the benefit year of the regular claim.

The eligibility period for extended benefits is also extended through 2011. The eligibility period consists of the week ending February 28, 2009, and applies as provided under the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, as it existed on December 17, 2010, or a subsequent date provided by the Employment Security Department by rule.

Study Provisions. The Employment Security Department is to include the following in the yearly training benefits program report;

- a survey based on assessment of the employment outcomes for training benefits program participating in the last three years in the yearly training benefits program report;
- an analysis of whether training received leads to employment in a high demand occupation and whether a degree or certificate is required in that occupational category to obtain employment;
- the number of participants who take courses in basic language, reading, or writing skills;
- the type of work participants did prior to unemployment;
- a projection of program costs for the next fiscal year and the total funds obligated and remaining for training benefits.

The Joint Legislative Audit and Review Committee must conduct a thorough review and evaluation of the training benefits program on a schedule established in the legislation. The review must assess whether the program is complying with legislative intent, whether the program is efficient, and make recommendations on how to improve training benefits.

**Appropriation:** None.

**Fiscal Note:** Requested on February 9, 2011.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill contains several effective dates. Please refer to the bill.