

ESSB 5478 - H COMM AMD

By Committee on Appropriations

ADOPTED AS AMENDED 04/22/2021

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that certain
4 businesses in Washington have experienced significant and
5 unanticipated impacts during the COVID-19 pandemic. The legislature
6 intends to preemptively minimize the disproportionate impact COVID-19
7 economic closures have had on these businesses.

8 (2) Small businesses in particular have fewer reserves and fewer
9 resources to rely upon in periods of downturn. Those businesses owned
10 by historically disadvantaged groups, such as women, minority
11 populations, and immigrants, often experience disproportionately more
12 distress and burden due to the economic impacts of the COVID-19
13 pandemic compared to their counterparts across the remaining business
14 community. These businesses are absolutely critical to the success of
15 Washington's continued high ratings, number one gross domestic
16 product, and are part of the backbone of Washington's diverse and
17 resilient economy.

18 (3) The legislature finds that ESSB 5061, passed by the
19 legislature and signed by the governor earlier in the 2021 session,
20 mitigated immediate impacts to employers through caps on the social
21 tax, suspension of the solvency surcharge, and relief of certain
22 benefit charges.

23 (4) The legislature now intends to address the disproportionate
24 impacts on small and other significantly impacted businesses beyond
25 the limited time period addressed in ESSB 5061. The legislature
26 intends to provide this targeted relief through the one-time
27 application of funds, in order to provide critical support for many
28 of the businesses that are essential to Washington's recovery and
29 ongoing economic vitality, while maintaining a healthy unemployment
30 insurance trust fund for Washington's workers.

1 employer's experience rating account or benefits otherwise relieved
2 under RCW 50.29.021.

3 (b) "Approved category 1 employer" means a contribution paying
4 employer:

5 (i) With 20 or fewer employees in the state as reported on the
6 employer's fourth quarter report to the department for 2020;

7 (ii) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
8 increased by three or more rate classes from rate year 2021 to rate
9 year 2022; and

10 (iii) Whose North American industry classification system code
11 for rate year 2021 is within "323," "331," "448," "451," "453,"
12 "481," "485," "487," "512," "711," "712," "713," "721," "722," "812,"
13 and "814."

14 (c) "Available benefits for category 1" means \$100,000,000 of the
15 total amount of money in the unemployment insurance relief account.

16 (d) "Forgiven benefits" means the approved benefits for an
17 individual employer multiplied by the forgiveness ratio.

18 (e) "Forgiveness ratio" is computed by dividing the available
19 benefits for category 1 by the total approved benefits. The
20 forgiveness ratio cannot be more than one.

21 (f) "Total approved benefits" means the sum total of all approved
22 benefits.

23 (4) The department must adopt such rules as are necessary to
24 carry out the purposes of this section.

25 (5) This section expires July 30, 2022.

26 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.29
27 RCW to read as follows:

28 (1) By December 20, 2021, the department must determine the
29 forgiven benefits for approved category 2 employers to be reimbursed
30 by the unemployment insurance relief account instead of charged to
31 the employer's experience rating account. Total approved benefits for
32 all approved category 2 employers may not exceed the available
33 benefits for category 2.

34 (2) The department will not charge the forgiven benefits to the
35 employer's experience rating account. The commissioner must instead
36 transfer from the unemployment insurance relief account to the
37 unemployment compensation fund created in RCW 50.16.010 an amount
38 equal to the forgiven benefits.

1 (3) For the purposes of this section, the following definitions
2 apply:

3 (a) "Approved benefits" means benefits paid to employees of an
4 approved category 2 employer during the fiscal year ending June 30,
5 2021, not to exceed an amount that would reduce the employer's rate
6 class increase to no more than a two rate class increase. Approved
7 benefits must not include benefits that were not charged to the
8 employer's experience rating account or benefits otherwise relieved
9 under RCW 50.29.021.

10 (b) "Approved category 2 employer" means a contribution paying
11 employer:

12 (i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
13 increased by three or more rate classes from rate year 2021 to rate
14 year 2022;

15 (ii) Whose North American industry classification system code for
16 rate year 2021 is within "323," "331," "448," "451," "453," "481,"
17 "485," "487," "512," "711," "712," "713," "721," "722," "812," and
18 "814"; and

19 (iii) Who does not meet the definition of approved category 1
20 employer under section 3(3) of this act.

21 (c) "Available benefits for category 2" means the sum total of:

22 (i) The difference between the available benefits for category 1,
23 as defined in section 3 of this act, and the total approved benefits
24 for approved category 1 employers, as defined in section 3 of this
25 act; and

26 (ii) \$175,000,000 of the total amount of money in the
27 unemployment insurance relief account.

28 (d) "Forgiven benefits" means the approved benefits for an
29 individual employer multiplied by the forgiveness ratio.

30 (e) "Forgiveness ratio" is computed by dividing the available
31 benefits for category 2 by the total approved benefits. The
32 forgiveness ratio cannot be more than one.

33 (f) "Total approved benefits" means the sum total of all approved
34 benefits.

35 (4) The department must adopt such rules as are necessary to
36 carry out the purposes of this section.

37 (5) This section expires July 30, 2022.

38 NEW SECTION. **Sec. 5.** A new section is added to chapter 50.29
39 RCW to read as follows:

1 (1) By December 20, 2021, the department must determine the
2 forgiven benefits for approved category 3 employers to be reimbursed
3 by the unemployment insurance relief account instead of charged to
4 the employer's experience rating account. Total approved benefits for
5 all approved category 3 employers may not exceed the available
6 benefits for category 3.

7 (2) The department will not charge the forgiven benefits to the
8 employer's experience rating account. The commissioner must instead
9 transfer from the unemployment insurance relief account to the
10 unemployment compensation fund created in RCW 50.16.010 an amount
11 equal to the forgiven benefits.

12 (3) For the purposes of this section, the following definitions
13 apply:

14 (a) "Approved benefits" means benefits paid to employees of an
15 approved category 3 employer during the fiscal year ending June 30,
16 2021, not to exceed an amount that would reduce the employer's rate
17 class increase to no more than a four rate class increase. Approved
18 benefits must not include benefits that were not charged to the
19 employer's experience rating account or benefits otherwise relieved
20 under RCW 50.29.021.

21 (b) "Approved category 3 employer" means a contribution paying
22 employer:

23 (i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
24 increased by six or more rate classes from rate year 2021 to rate
25 year 2022;

26 (ii) With 20 or fewer employees in the state as reported on the
27 employer's fourth quarter report to the department for 2020; and

28 (iii) Who does not meet the definition of approved category 1
29 employer under section 3(3) of this act or approved category 2
30 employer under section 4(3) of this act.

31 (c) "Available benefits for category 3" means the sum total of:

32 (i) The difference between the available benefits for category 2,
33 as defined under section 4 of this act, and the total approved
34 benefits for approved category 2 employers, as defined under section
35 4 of this act; and

36 (ii) \$75,000,000 of the total amount of money in the unemployment
37 insurance relief account.

38 (d) "Forgiven benefits" means the approved benefits for an
39 individual employer multiplied by the forgiveness ratio.

1 (e) "Forgiveness ratio" is computed by dividing the available
2 benefits for category 3 by the total approved benefits. The
3 forgiveness ratio cannot be more than one.

4 (f) "Total approved benefits" means the sum total of all approved
5 benefits.

6 (4) The department must adopt such rules as are necessary to
7 carry out the purposes of this section.

8 (5) This section expires July 30, 2022.

9 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.29
10 RCW to read as follows:

11 (1) By December 20, 2021, the department must determine the
12 forgiven benefits for approved category 4 employers to be reimbursed
13 by the unemployment insurance relief account instead of charged to
14 the employer's experience rating account. Total approved benefits for
15 all approved category 4 employers may not exceed the available
16 benefits for category 4.

17 (2) The department will not charge the forgiven benefits to the
18 employer's experience rating account. The commissioner must instead
19 transfer from the unemployment insurance relief account to the
20 unemployment compensation fund created in RCW 50.16.010 an amount
21 equal to the forgiven benefits.

22 (3) For the purposes of this section, the following definitions
23 apply:

24 (a) "Approved benefits" means benefits paid to employees of an
25 approved category 4 employer during the fiscal year ending June 30,
26 2021, not to exceed an amount that would reduce the employer's rate
27 class increase to no more than a four rate class increase. Approved
28 benefits must not include benefits that were not charged to the
29 employer's experience rating account or benefits otherwise relieved
30 under RCW 50.29.021.

31 (b) "Approved category 4 employer" means a contribution paying
32 employer:

33 (i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
34 increased by six or more rate classes from rate year 2021 to rate
35 year 2022;

36 (ii) With at least 21 but fewer than 5,000 employees in the state
37 as reported on the employer's fourth quarter report to the department
38 for 2020; and

1 (iii) Who does not meet the definition of approved category 1
2 employer under section 3(3) of this act, approved category 2 employer
3 under section 4(3) of this act, or approved category 3 employer under
4 section 5(3) of this act.

5 (c) "Available benefits for category 4" means the sum total of:

6 (i) The difference between the available benefits for category 3,
7 as defined under section 5 of this act, and the total approved
8 benefits for approved category 3 employers, as defined under section
9 5 of this act; and

10 (ii) \$150,000,000 of the total amount of money in the
11 unemployment insurance relief account.

12 (d) "Forgiven benefits" means the approved benefits for an
13 individual employer multiplied by the forgiveness ratio.

14 (e) "Forgiveness ratio" is computed by dividing the available
15 benefits for category 4 by the total approved benefits. The
16 forgiveness ratio cannot be more than one.

17 (f) "Total approved benefits" means the sum total of all approved
18 benefits.

19 (4) The department must adopt such rules as are necessary to
20 carry out the purposes of this section.

21 (5) This section expires July 30, 2022.

22 NEW SECTION. **Sec. 7.** A new section is added to chapter 50.29
23 RCW to read as follows:

24 (1) By July 30th of each year, the department must determine
25 which employers have not paid all contributions, penalties, or
26 interest due, and have not entered into a department-approved
27 deferred payment contract, as of that date.

28 (2) By September 1st of each year, for each employer meeting the
29 criteria in subsection (1) of this section, the department must
30 notify the employer of the availability of deferred payment contracts
31 with the department. The department must provide technical, and
32 culturally and linguistically relevant, assistance as needed to the
33 employer in navigating the process for entering into a department-
34 approved payment contract.

35 NEW SECTION. **Sec. 8.** 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
38 employers in this state for federal unemployment tax credits, the

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

7 NEW SECTION. **Sec. 9.** This act is necessary for the immediate
8 preservation of the public peace, health, or safety, or support of
9 the state government and its existing public institutions, and takes
10 effect immediately."

11 Correct the title.

EFFECT: Creates four categories of employers eligible for
forgiven benefits, rather than two, that:

- (1) Include categories limited by lower size thresholds;
- (2) Include somewhat different industries in the industry-limited categories;
- (3) Use a higher minimum rate increase threshold; and
- (4) Are eligible for different portions of total available funding.

Changes the deadline for the calculation of forgiven benefits from November 1, 2021 to December 20, 2021 for all categories. Removes the disqualification of employers delinquent in payments due to the Employment Security Department (ESD). Assumes total available funding of at least \$500,000,000. Requires ESD to provide annual outreach and assistance to employers delinquent in payments.

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