

SENATE BILL REPORT

SB 5478

As of March 29, 2021

Title: An act relating to unemployment insurance relief for certain employers.

Brief Description: Concerning unemployment insurance relief for certain employers.

Sponsors: Senators Keiser, Mullet, Billig, Cleveland, Conway, Das, Hunt, King, Kuderer, Lias, Lovelett, Nguyen, Randall, Rolfes, Saldaña, Stanford, Van De Wege and Wilson, C..

Brief History:

Committee Activity: Ways & Means: 3/30/21.

Brief Summary of Bill

- Creates the Unemployment Insurance Relief Account (UI Relief account).
- Requires the Employment Security Department (ESD) determine forgiven benefits, based on a calculation, for certain employers which will be reimbursed by the UI Relief account instead of charged to the employers' experience rating accounts.
- Mandates ESD transfer from the UI Relief account to the unemployment compensation fund an amount equal to the forgiven benefits.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Sarah Emmans (786-7478)

Background: Unemployment Benefit Eligibility. An unemployed individual (claimant) is eligible to receive unemployment insurance benefits (UI benefits) if the claimant worked at least 680 hours in the base year; was separated from employment through no fault of the claimant's, or quit work for good cause; and is able to work, available to work, and is actively searching for suitable work. The Employment Security Department (ESD)

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administers Washington State's unemployment insurance program.

Unemployment Insurance Contributions. Most employers pay contributions to finance unemployment benefits. A contribution paying employer's tax rate is experience-rated so the rate is determined, in part, by the benefits paid to its employees. A benefit ratio is computed for each qualified employer by dividing the total amount of benefits charged to the account of the employer by the taxable payrolls over a four year period. Based on the benefit ratio, the employer is assigned a rate class from 1 to 40. The rate class determines the experience rate for the employer. The experience rates range from zero to 5.4 percent. In addition to the experience-rated tax, employers may pay a graduated social cost tax and a solvency surcharge. The graduated social tax is flat social cost factor multiplied by the percentage assigned to each rate class. Except as provided in ESSB 5061, the maximum flat social tax is 1.22 percent and the assigned percentages range from 40 to 120 percent.

Charging Unemployment Insurance Benefits Paid. UI benefits paid are charged to the experience rating of base year employers on a pro rata basis according to the amount of wages paid to the claimant by the employer in the claimant's base year compared to the wages paid by all employers. Some benefits, such as those paid for certain good cause quits, are charged only to the separating employer, or are not charged to any employer.

Previously Enacted Legislation. ESSB 5061 enacted this session, provided certain UI benefits and relief to claimants and employers. For certain employers, benefits were not charged to the experience rating account, including the one-week waiting period waived under the CARES Act and UI benefits paid for all weeks starting with the week ending March 28, 2020 through May 30, 2020. A contribution paying employer may also now request that benefits paid not be charged to the employer's experience rating when the benefits paid are a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility and the closure resulted from the presence of any dangerous, contagious, or infectious disease that is the subject of a public health emergency at the plant, building, worksite, or other facility. ESSB 5061 also reduced the maximum flat social tax and suspended the solvency tax for five years.

EHB 2965, enacted in 2020, provided \$25 million to the state COVID-19 unemployment account for the ESD to forgive certain unemployment insurance benefits for eligible employers who applied for relief. The funds were spread proportionally across the total amount of benefits requested to be forgiven by eligible employers, and were sufficient to provide 23.75 percent of approved relief.

North American Industry Classification System Code. The North American Industry Classification System (NAICS) was developed as the standard for use by Federal statistical agencies in classifying business establishments for collection, analysis, and publication of statistical data related to the business economy of the United States. NAICS was developed by the federal Office of Management and Budget, and adopted in 1997 to replace the old Standard Industrial Classification system. The following are certain three digit NAICS

codes and industry descriptions:

323	Printing and Related Support Activities
448	Clothing and Clothing Accessories Stores
451	Sporting Goods, Hobby, Book, and Music Stores
453	Miscellaneous Store Retailers
481	Air Transportation
485	Transit and Ground Passenger Transportation
487	Scenic and Sightseeing Transportation
512	Motion Picture and Sound Recording Industries
711	Performing Arts, Spectator Sports, and Related Industries
713	Amusement, Gambling, and Recreation Industries
721	Accommodation
722	Food Services and Drinking Places
812	Personal and Laundry Services

Summary of Bill: Unemployment Insurance Relief Account Created. The unemployment insurance relief account (UI Relief account) is created. Revenues to the UI Relief account consist of appropriations and all other funding directed for deposit into the UI Relief account. Only the ESD commissioner may authorize expenditures from the UI Relief account, which may be used only for reimbursing the unemployment compensation fund for forgiven benefits. By July 1, 2022, the ESD commissioner must certify to the treasurer the amount of any unobligated moneys in the UI Relief account that were appropriated by the Legislature from the general fund during the 2021-2023 fiscal biennium. The treasurer must transfer the unobligated moneys back to the general fund.

Forgiven Benefits—Noncharged and Paid From the Unemployment Insurance Relief Account. By November 1, 2021, ESD must determine the forgiven benefits for approved tier 1 and tier 2 employers to be reimbursed by the UI Relief account instead of being charged to the employer's experience rating account. ESD must transfer from the UI Relief account to the unemployment compensation fund an amount equal to the forgiven benefits.

Tier 1 Employers' Forgiven Benefits. An approved tier 1 employer means a contribution paying employer, excluding any ineligible employer, whose:

- experience rating under has increased by two or more rate classes from rate year 2021 to rate year 2022; and
- NAICS code for rate year 2021 is within 323, 448, 451, 453, 481, 485, 487, 512, 711, 713, 721, 722, and 812.

Forgiven benefits for tier 1 employers are the approved benefits for an individual employer multiplied by the forgiveness ratio, which is computed by dividing 60 percent of the total amount of money in the UI Relief account by the total approved benefits. Total approved benefits are the sum total of all approved benefits. Approved benefits are the benefits paid

to employees of an approved tier 1 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a two rate class increase.

Tier 2 Employers' Forgiven Benefits. An approved tier 2 employer is a contribution paying employer, excluding any ineligible employer:

- whose experience rating has increased by six or more rate classes from rate year 2021 to rate year 2022;
- with fewer than 40,000 employees in the state as reported on the employer's fourth quarter report to ESD for 2019; and
- who does not meet the definition of approved tier 1 employer.

Forgiven benefits for tier 2 employers are the approved benefits for an individual employer multiplied by the forgiveness ratio, which is computed by dividing 40 percent of the total amount of money in the UI relief account by the total approved benefits. Total approved benefits are the sum total of all approved benefits. Approved benefits are the benefits paid to employees of an approved tier 2 employer during the fiscal year ending June 30, 2021, not to exceed an amount that would reduce the employer's rate class increase to no more than a four rate class increase.

Ineligible Employers. Any employer that has not paid all contributions, penalties, and interest due by September 30, 2021, or has not entered into a department-approved deferred payment contract by September 30, 2021 is not eligible to have their benefits forgiven and paid from the UI Relief account.

Miscellaneous. Approved benefits do not include benefits not charged to the employer's experience rating. ESD must adopt such rules as are necessary to carry out the forgiven benefits UI relief. This relief expires July 30, 2022. Legislative intent is provided.

Appropriation: None.

Fiscal Note: Requested on March 26, 2021.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: The bill contains an emergency clause and takes effect immediately.