

SENATE BILL REPORT

SB 5873

As of January 24, 2022

Title: An act relating to unemployment insurance, family leave, and medical leave premiums.

Brief Description: Concerning unemployment insurance, family leave, and medical leave premiums.

Sponsors: Senators Keiser, Billig, Conway, Das, Dhingra, King, Kuderer, Lias, Lovick, Mullet, Nguyen, Nobles, Randall, Robinson, Rolfes, Stanford and Wilson, C..

Brief History:

Committee Activity: Ways & Means: 1/24/22.

Brief Summary of Bill

- Decreases the maximum Unemployment Insurance (UI) social cost factor for 2022 and 2023.
- Sets a maximum UI rate class for the purposes of the percentage of the social cost factor to be paid by small businesses in 2023.
- Decreases the Paid Family & Medical Leave employee premium rate, subject to appropriation.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Joshua Hinman (786-7281) and Susan Jones (786-7404)

Background: Unemployment Insurance. Unemployment Insurance (UI) benefits provide individuals with temporary income when they lose their job through no fault of their own. Most employers pay contributions—payroll taxes—to finance unemployment benefits. A contribution paying employer's tax rate is experience-rated so that 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

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

the taxable payrolls.

In addition to the experience-rated tax, employers may pay a social cost factor rate (social tax). The social tax is calculated in two parts:

- by dividing the total social costs—total UI benefits paid less the contributions paid—by the total payroll; which cannot exceed 0.75 percent in 2022 and 0.80 percent in 2023; and
- graduated for each employer based on their experience rate class which ranges from 40 to 120 percent of the social tax.

A solvency surcharge applies if there are fewer than seven months of UI benefits in the UI trust fund, which may not exceed 0.2 percent. The solvency surcharge was waived through 2025.

Paid Family & Medical Leave. The Paid Family & Medical Leave (PFML) program provides benefits to qualifying workers who take leave for specified family and medical purposes. PFML is funded by both employer and employee contributions.

The total premium rate for each calendar year must be based on the Family and Medical Leave Insurance Account (FMLIA) balance ratio as of September 30th of the previous year. The balance ratio is calculated by dividing the FMLIA balance by total gross covered wages. The premium rate is based on this balance ratio. The premium rate was 0.40 percent in 2021 and is set at 0.60 percent in 2022.

The premium rate is split between family leave and medical leave, which will dictate the proportion of the premium that is contributed by employers versus employees. Prior to 2022, the paid claims split was statutorily set at one-third family leave and two-thirds medical leave. Starting in 2022, the ratio is set by the proportion of paid claims in the prior year. For the 2022 premium rate, paid claims proportions were 51 percent —family and 49 percent —medical.

Employees pay 100 percent of the family leave portion. The medical portion is 55 percent paid by employers and 45 percent by employees. Employers with fewer than 50 employees, employed in the state, are not required to pay the employer portion of premiums.

Starting January 1, 2022, the premium rate is 0.6 percent of each employee's gross wages, not including tips, up to the 2022 Social Security cap of \$147,000. Of this, employers with 50 or more employees will pay up to 26.78 percent and employees will pay 73.22 percent.

Summary of Bill: Unemployment Insurance. *Social Tax.* In 2022, the maximum social tax is reduced from 0.75 percent to 0.50 percent. In 2023, the maximum social tax is reduced from 0.80 percent to 0.70 percent.

Small Businesses. In 2023, employees with 10 or fewer employees, as of the fourth quarter

2021, will have a graduated social tax factor capped at rate 7. This would lower the tax rate for small businesses who are in rate class 8 or higher.

Paid Family and Medical Leave. The 2022 PFML premium rate of 0.6 percent, and employer contribution of 26.78 percent, will remain the same, while the employee's portion would decrease. The employee's contribution is currently set at 73.22 percent of the premium rate, and this contribution would be reduced to 42.22 percent. This provision is subject to an appropriation to fund the remaining 31 percent share of the premium rate.

Appropriation: None.

Fiscal Note: Available.

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

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

Staff Summary of Public Testimony: PRO: The bill reduces the unemployment insurance (UI) tax increase. There is still an increase but it is not as much. We are again emphasizing extra relief for the small businesses that are larger bearers of the social tax part of the UI tax. These changes will not undermine the benefits and there will be sufficient funds to pay benefits, as needed. It will be a tax cut that is not as big as last years \$2.2 billion UI tax cut but it will be a two-year tax cut for businesses, amounting to \$240-250,000.

On paid family leave, it will help the premium that workers pay out of their paychecks to stay the same as opposed to almost doubling. The employer side did not change much for 2022 so that is why there is no change on the employer side. These are more modest tax cuts than last year during the throws of the pandemic but are necessary to keep a strong economy.

Last year provided relief from the dramatic increases from unemployment insurance taxes that were on the horizon. Employment has rebounded and the UI trust fund is replenishing at a healthy rate. Last year, employers were facing seven-to-ten-fold increases, the trust fund going insolvent, and potential federal UI loans. Last year's bills were critical for businesses that saw a 600 percent increase, but everyone still saw an increase in UI premiums.

Small businesses are still struggling with pandemic related shutdowns and slowdowns. Sixty-five percent of them have not seen sales return to pre-pandemic levels. Small businesses are also struggling with workforce supply chain issues, inflation, and other increasing premiums. Many small employers are reporting their UI taxes doubling or tripling even when they have had no layoffs or UI claims filed. The bill would provide welcome relief.

The hospitality industry was hardest hit by the pandemic. The federal, state, and local relief saved businesses, including the relief the Legislature provided last year. Fourteen-thousand fewer businesses closed their doors during the second six months of the pandemic than the first six months.

Despite last year's unprecedented relief, employers are still paying significantly more, \$400 million more in 2022 than in 2020 and \$800 million more in 2023. This legislation is critical for Washington businesses. People will still see an increase but it softens the blow of the increase. The decrease may be modest but it makes sense. The bill will continue relief for every business by capping the social tax, without general fund impact or a negative impact on the UI trust fund.

Persons Testifying: PRO: Senator Karen Keiser, Prime Sponsor; Patrick Connor, NFIB; Julia Gorton, Washington Hospitality Association; Bruce Beckett, Washington Retail Association; Robert Battles, Association of Washington Business (AWB).

Persons Signed In To Testify But Not Testifying: No one.