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**HOUSE BILL 1612**

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**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Representatives Sells, Berry, Wicks, Simmons, and Harris-Talley;  
by request of Employment Security Department

Prefiled 12/07/21. Read first time 01/10/22. Referred to Committee  
on Labor & Workplace Standards.

1 AN ACT Relating to making technical cross-reference corrections  
2 in statutes governing unemployment insurance; and amending RCW  
3 50.29.025 and 50.29.070.

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

5 **Sec. 1.** RCW 50.29.025 and 2021 c 2 s 17 are each amended to read  
6 as follows:

7 (1) The contribution rate for each employer subject to  
8 contributions under RCW 50.24.010 shall be the sum of the array  
9 calculation factor rate and the graduated social cost factor rate  
10 determined under this subsection, and the solvency surcharge  
11 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  
15 in ascending order of their benefit ratios. The array shall show for  
16 each qualified employer: (A) Identification number; (B) benefit  
17 ratio; and (C) taxable payrolls for the four consecutive calendar  
18 quarters immediately preceding the computation date and reported to  
19 the employment security department by the cut-off date.

20 (ii) Each employer in the array shall be assigned to one of forty  
21 rate classes according to his or her benefit ratio as follows, and,

1 except as provided in RCW 50.29.026, the array calculation factor  
 2 rate for each employer in the array shall be the rate specified in  
 3 the rate class to which the employer has been assigned:

	Benefit Ratio		Rate	Rate
	At least	Less than	Class	(percent)
4				
5				
6				
7		0.000001	1	0.00
8	0.000001	0.001250	2	0.11
9	0.001250	0.002500	3	0.22
10	0.002500	0.003750	4	0.33
11	0.003750	0.005000	5	0.43
12	0.005000	0.006250	6	0.54
13	0.006250	0.007500	7	0.65
14	0.007500	0.008750	8	0.76
15	0.008750	0.010000	9	0.88
16	0.010000	0.011250	10	1.01
17	0.011250	0.012500	11	1.14
18	0.012500	0.013750	12	1.28
19	0.013750	0.015000	13	1.41
20	0.015000	0.016250	14	1.54
21	0.016250	0.017500	15	1.67
22	0.017500	0.018750	16	1.80
23	0.018750	0.020000	17	1.94
24	0.020000	0.021250	18	2.07
25	0.021250	0.022500	19	2.20
26	0.022500	0.023750	20	2.38
27	0.023750	0.025000	21	2.50
28	0.025000	0.026250	22	2.63
29	0.026250	0.027500	23	2.75
30	0.027500	0.028750	24	2.88
31	0.028750	0.030000	25	3.00
32	0.030000	0.031250	26	3.13
33	0.031250	0.032500	27	3.25

1	0.032500	0.033750	28	3.38
2	0.033750	0.035000	29	3.50
3	0.035000	0.036250	30	3.63
4	0.036250	0.037500	31	3.75
5	0.037500	0.040000	32	4.00
6	0.040000	0.042500	33	4.25
7	0.042500	0.045000	34	4.50
8	0.045000	0.047500	35	4.75
9	0.047500	0.050000	36	5.00
10	0.050000	0.052500	37	5.15
11	0.052500	0.055000	38	5.25
12	0.055000	0.057500	39	5.30
13	0.057500		40	5.40

14 (b) The graduated social cost factor rate shall be determined as  
15 follows:

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

24 (B) (I) If, on the cut-off date, the balance in the unemployment  
25 compensation fund is determined by the commissioner to be an amount  
26 that will provide more than ten months of unemployment benefits, the  
27 commissioner shall calculate the flat social cost factor for the rate  
28 year immediately following the cut-off date by reducing the total  
29 social cost by the dollar amount that represents the number of months  
30 for which the balance in the unemployment compensation fund on the  
31 cut-off date will provide benefits above ten months and dividing the  
32 result by the total taxable payroll. However, the calculation under  
33 this subsection (1) (b) (i) (B) for a rate year may not result in a flat  
34 social cost factor that is more than four-tenths lower than the  
35 calculation under (b) (i) (A) of this subsection for that rate year.  
36 For rate year 2011 and thereafter, the calculation may not result in

1 a flat social cost factor that is more than one and twenty-two one-  
2 hundredths percent except for rate year 2021 the calculation may not  
3 result in a flat social cost factor that is more than five-tenths  
4 percent, for rate year 2022 the calculation may not result in a flat  
5 social cost factor that is more than seventy-five one-hundredths  
6 percent, for rate year 2023 the calculation may not result in a flat  
7 social cost factor that is more than eight-tenths percent, for rate  
8 year 2024 the calculation may not result in a flat social cost factor  
9 that is more than eighty-five one-hundredths percent, and for rate  
10 year 2025 the calculation may not result in a flat social cost factor  
11 that is more than nine-tenths percent.

12 (II) If, on the cut-off date, the balance in the unemployment  
13 compensation fund is determined by the commissioner to be an amount  
14 that will provide ten months of unemployment benefits or less, the  
15 flat social cost factor for the rate year immediately following the  
16 cut-off date may not increase by more than fifty percent over the  
17 previous rate year or may not exceed one and twenty-two one-  
18 hundredths percent, whichever is greater.

19 (III) For the purposes of this subsection (1)(b), the  
20 commissioner shall determine the number of months of unemployment  
21 benefits in the unemployment compensation fund using the benefit cost  
22 rate for the average of the three highest calendar benefit cost rates  
23 in the twenty consecutive completed calendar years immediately  
24 preceding the cut-off date or a period of consecutive calendar years  
25 immediately preceding the cut-off date that includes three  
26 recessions, if longer.

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

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

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

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

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

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

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

10 (VII) At least eighteen months of unemployment benefits, the  
11 minimum shall be fifteen hundredths of one percent through year  
12 2011 and shall be zero thereafter.

13 (ii) The graduated social cost factor rate for each employer in  
14 the array is the flat social cost factor multiplied by the percentage  
15 specified as follows for the rate class to which the employer has  
16 been assigned in (a)(ii) of this subsection, except that the sum of  
17 an employer's array calculation factor rate and the graduated social  
18 cost factor rate may not exceed six percent or, for employers whose  
19 North American industry classification system code is within "111,"  
20 "112," "1141," "115," "3114," "3117," "42448," or "49312," may not  
21 exceed five and four-tenths percent:

22 (A) Rate class 1 - 40 percent;

23 (B) Rate class 2 - 44 percent;

24 (C) Rate class 3 - 48 percent;

25 (D) Rate class 4 - 52 percent;

26 (E) Rate class 5 - 56 percent;

27 (F) Rate class 6 - 60 percent;

28 (G) Rate class 7 - 64 percent;

29 (H) Rate class 8 - 68 percent;

30 (I) Rate class 9 - 72 percent;

31 (J) Rate class 10 - 76 percent;

32 (K) Rate class 11 - 80 percent;

33 (L) Rate class 12 - 84 percent;

34 (M) Rate class 13 - 88 percent;

35 (N) Rate class 14 - 92 percent;

36 (O) Rate class 15 - 96 percent;

37 (P) Rate class 16 - 100 percent;

38 (Q) Rate class 17 - 104 percent;

39 (R) Rate class 18 - 108 percent;

40 (S) Rate class 19 - 112 percent;

1 (T) Rate class 20 - 116 percent; and  
2 (U) Rate classes 21 through 40 - 120 percent.

3 (iii) For the purposes of this section:

4 (A) "Total social cost" means the amount calculated by  
5 subtracting the array calculation factor contributions paid by all  
6 employers with respect to the four consecutive calendar quarters  
7 immediately preceding the computation date and paid to the employment  
8 security department by the cut-off date from the total unemployment  
9 benefits paid to claimants in the same four consecutive calendar  
10 quarters.

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

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

18 (i) (A) For an employer who does not enter into an approved  
19 agency-deferred payment contract as described in (c) (i) (B) or (C) of  
20 this subsection, the array calculation factor rate shall be the rate  
21 it would have been if the employer had not been delinquent in payment  
22 plus an additional one percent or, if the employer is delinquent in  
23 payment for a second or more consecutive year, an additional two  
24 percent;

25 (B) For an employer who enters an approved agency-deferred  
26 payment contract by September 30th of the previous rate year, the  
27 array calculation factor rate shall be the rate it would have been if  
28 the employer had not been delinquent in payment;

29 (C) For an employer who enters an approved agency-deferred  
30 payment contract after September 30th of the previous rate year, but  
31 within thirty days of the date the department sent its first tax rate  
32 notice, the array calculation factor rate shall be the rate it would  
33 have been had the employer not been delinquent in payment plus an  
34 additional one-half of one percent or, if the employer is delinquent  
35 in payment for a second or more consecutive year, an additional one  
36 and one-half percent;

37 (D) For an employer who enters an approved agency-deferred  
38 payment contract as described in (c) (i) (B) or (C) of this subsection,  
39 but who fails to make any one of the succeeding deferred payments or  
40 fails to submit any succeeding tax report and payment in a timely

1 manner, the array calculation factor rate shall immediately revert to  
2 the applicable array calculation factor rate under (c)(i)(A) of this  
3 subsection; and

4 (ii) The social cost factor rate shall be the social cost factor  
5 rate assigned to rate class 40 under (b)(ii)(~~(A)~~) of this  
6 subsection.

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

8 (i) The array calculation factor rate shall be a rate equal to  
9 the average industry array calculation factor rate as determined by  
10 the commissioner, multiplied by the history factor, but not less than  
11 one percent or more than the array calculation factor rate in rate  
12 class 40;

13 (ii) The social cost factor rate shall be a rate equal to the  
14 average industry social cost factor rate as determined by the  
15 commissioner, multiplied by the history factor, but not more than the  
16 social cost factor rate assigned to rate class 40 under (b)(ii) of  
17 this subsection; and

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

	History		History
	Ratio		Factor
			(percent)
	At least	Less than	
32			
33			
34			
35			
36	(A)	.95	90
37	(B)	.95	100
38	(C)	1.05	115

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

5           **Sec. 2.** RCW 50.29.070 and 2003 2nd sp.s. c 4 s 19 are each  
6 amended to read as follows:

7           (1) Within a reasonable time after the computation date each  
8 employer shall be notified of the employer's rate of contribution as  
9 determined for the succeeding rate year and factors used in the  
10 calculation. Beginning with rate year 2005, the notice must include  
11 the amount of the contribution rate that is attributable to each  
12 component of the rate under RCW 50.29.025(~~(+2)~~) (1).

13           (2) Any employer dissatisfied with the benefit charges made to  
14 the employer's account for the twelve-month period immediately  
15 preceding the computation date or with his or her determined rate may  
16 file a request for review and redetermination with the commissioner  
17 within thirty days of the mailing of the notice to the employer,  
18 showing the reason for such request. Should such request for review  
19 and redetermination be denied, the employer may, within thirty days  
20 of the mailing of such notice of denial, file with the appeal  
21 tribunal a petition for hearing which shall be heard in the same  
22 manner as a petition for denial of refund. The appellate procedure  
23 prescribed by this title for further appeal shall apply to all  
24 denials of review and redetermination under this section.

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