

HOUSE BILL REPORT

HB 1898

As Passed House:

January 25, 2024

Title: An act relating to unemployment insurance benefit charging.

Brief Description: Concerning unemployment insurance benefit charging.

Sponsors: Representatives Schmidt, Fosse, Connors, Berry, Bronoske, Abbarno, Ormsby, Volz, Leavitt, Low, Reed, Graham, Kloba and Reeves; by request of Employment Security Department.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/9/24, 1/12/24 [DP].

Floor Activity:

Passed House: 1/25/24, 93-0.

Brief Summary of Bill

- Modifies provisions affecting the calculation of an employer's experience rating for unemployment insurance payroll taxes when the employer is exempt or otherwise relieved from directly paying for a former employee's benefits.
- Prohibits the Employment Security Department (ESD) from requiring an employer to file a written request for relief from benefit charges in certain instances where the employer is categorically exempt from paying for those charges.
- Allows the ESD to waive the 30-day deadline for requesting relief from benefit charges based on good cause.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

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.

Majority Report: Do pass. Signed by 9 members: Representatives Berry, Chair; Fosse, Vice Chair; Schmidt, Ranking Minority Member; Bronoske, Doglio, Ormsby, Ortiz-Self, Rude and Ybarra.

Staff: Kelly Leonard (786-7147).

Background:

The unemployment insurance (UI) system, administered by the Employment Security Department (ESD), is designed to provide partial wage replacement for workers who are unemployed through no fault of their own. Benefits are financed through contributions paid by employers, commonly referred to as payroll taxes.

An employer's contributions are determined by multiple factors, including an experience rating based on the benefits paid to its former employees and the size of its payroll. As a default, benefits are proportionally charged to base-year employers according to the amount of wages paid to the person by each employer in the person's base year compared to the wages paid by all employers. State law provides several categorical exceptions where benefits are charged differently based on the circumstances causing the separation from employment or other factors. Depending on the category, benefits could either be charged only to the separating employer or not be charged to any base-year employer. In the latter instance, those costs are socialized and shared evenly by all employers participating in the UI system. For example, if a worker is eligible for benefits after separating from employment in order to relocate to be near his or her minor child, then those benefits are not charged to any of the base-year employers. Those costs are socialized in the UI system.

Even where an employer is charged for a worker's benefits by default, the employer may qualify for relief of those charges based on certain criteria. This includes, for example, if the worker left work voluntarily for reasons not attributable to the employer, was discharged for misconduct, or was laid off as a result of a catastrophic incident, among others. If an employer is charged under circumstances where the employer otherwise qualifies for relief, the employer must make a request for relief of those charges within 30 days.

An employer cannot be relieved of charges if the payments were made because the employer failed to respond timely or adequately to a written request for information from the ESD and the employer has demonstrated a certain pattern of such failures. In this instance, for a response to be considered adequate, the employer must have provided accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

Summary of Bill:

Certain modifications are made to the requirements and procedures pertaining to benefit charging.

An employer is relieved from benefit charging when the ESD later finds the person is disqualified from receiving those benefits. In addition, certain provisions allowing for relief of charges based on categorical exemptions are modified to clarify that the relief applies to all base-year employers, not just the separating employer.

The ESD may not require an employer to submit a written request in order to be relieved of charges where state law categorically provides those benefits should not be charged to employers. This includes, for example, benefits paid to a worker who:

- was later determined to be disqualified or ineligible for those benefits;
- is experiencing a temporary total disability;
- is receiving extended benefits;
- separated from employment as a means to protect themselves against domestic violence or stalking;
- separated from employment to enter an approved apprenticeship program;
- separated from employment because of illness or disability;
- separated from employment in order to care for a child or vulnerable adult; or
- separated from employment in order to relocate to be near his or her minor child.

In instances where a written request for relief is required, the ESD may waive the 30-day deadline based on good cause.

The provision restricting relief from charges for employers that fail to respond to the ESD is modified. In order for responses to be considered adequate, the employer must provide accurate information of sufficient quantity and quality that would allow a reasonable person to determine whether a person is eligible for or qualified to receive benefits.

Certain cross-references are corrected, and certain language is modified to improve readability.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) The bill makes necessary updates to UI benefit charging statutes. Recent legislation modifying UI eligibility and benefit charging did not consistently address how benefits are charged to employers. The statute is difficult for employers to understand and follow, and it has become an unnecessarily cumbersome process. The bill makes it clear when the ESD can categorically exempt employers from benefit charging without requiring

employers to submit written requests. The ESD can often conduct these assessments based on information provided by claimants. The bill also allows for flexibility on extending the deadline for written requests for benefit charging relief.

(Opposed) None.

Persons Testifying: Representative Suzanne Schmidt, prime sponsor; Caitlyn Jekel, Employment Security Department; Robert Battles, Association of Washington Business; and Julia Gorton, Washington Hospitality Association.

Persons Signed In To Testify But Not Testifying: None.