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**SUBSTITUTE HOUSE BILL 1773**

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**State of Washington 69th Legislature 2025 Regular Session**

**By** House Labor & Workplace Standards (originally sponsored by Representatives Cortes, Ortiz-Self, Mena, Taylor, Farivar, Berry, Walen, Ormsby, Thai, Stonier, Ryu, Ramel, Macri, Berg, Gregerson, Zahn, Simmons, Scott, Parshley, Salahuddin, Fosse, Duerr, Doglio, Pollet, and Reed)

AN ACT Relating to creating a wage replacement program for certain Washington workers excluded from unemployment insurance; amending RCW 50.29.041 and 50.24.014; reenacting and amending RCW 42.56.410 and 50.29.025; adding a new chapter to Title 50 RCW; creating a new section; and prescribing penalties.

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

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. In addition, the definitions in chapter 50.04 RCW apply, except as otherwise provided in this section. To the extent such definitions in chapter 50.04 RCW refer to "benefits" and "claimant," for the purposes of administering the wage replacement program in this chapter those terms mean the same as "payments" and "applicant" as defined in this section.

(1) "Applicant" means an individual applying for payments under this chapter.

(2) "Department" means the employment security department.

(3)(a) "Employment" has the meaning provided in RCW 50.04.100, subject to the provisions of RCW 50.04.110, 50.04.120 through 50.04.205, 50.04.210 through 50.04.280, and 50.44.040. The provisions of RCW 50.04.206 do not apply to the definition of "employment" for this chapter.

(b) "Employment" does not include service that is performed by a nonresident for the period the nonresident is temporarily present in the United States as a nonimmigrant under subparagraph (F), (H)(ii), (H)(iii), or (J) of 8 U.S.C. Sec. 1101(a)(15) of the immigration and nationality act, as amended as of the effective date of this section, and that is performed to carry out the purpose specified in the applicable subparagraph of the immigration and nationality act.

(4) "Payment" or "payments" means the amounts payable to an applicant, as provided in this chapter with respect to the applicant's unemployment.

(5) "Payment year" has the same meaning as "benefit year" under RCW 50.04.030.

(6)(a) "Resident of the state of Washington" means an applicant who takes actions indicating they intend to live in Washington state on more than a temporary or transient basis throughout the duration of receiving payments under this chapter. Under this chapter, an applicant is a resident of the state of Washington if the applicant:

(i) Maintains a residence in Washington for personal use with a utility bill showing their full name and Washington state address;

(ii) Lives in a motor home or vessel that is not permanently attached to any real property if the applicant previously lived in this state and does not have a permanent residence in any other state;

(iii) Is attending school in this state and paying tuition as a Washington resident, is a custodial parent with a child attending a public school in this state, or has correspondence from a school in this state showing their full name and Washington state address;

(iv) Has a Washington state identification card showing their full name and Washington state address;

(v) Has a current library card issued in this state;

(vi) Has correspondence from a community or faith-based organization in this state showing their full name and Washington state address; or

(vii) Has a medical document showing their full name and Washington state address.

(b) The actions and documentation outlined in this subsection (6) are a nonexhaustive list, and the third-party administrator may adopt additional methods by which an applicant may prove they are a resident of the state of Washington.

(7) "Third-party administrator" means an entity with which the department contracts to administer payments to eligible individuals under this chapter.

(8) "Week of unemployment" means any week during which an applicant, including a self-employed applicant:

(a) Performs no services and with respect to which no remuneration is payable to the applicant; or

(b) Performs less than full-time work if the remuneration payable to the applicant with respect to such week is less than one and one-third times the individual's weekly payment amount plus $5.00.

NEW SECTION. **Sec.**  The Washington wage replacement account is created in the custody of the state treasurer. Revenues to the account must consist of appropriations and transfers by the legislature and all other funding directed for deposit into the account. Expenditures from the account may be used only for providing payments under this chapter to eligible and qualified applicants, contracting with community-based organizations to notify individuals who may be eligible for payments under this chapter, administration of the advisory committee of this act, the department's administrative costs, and third-party administrators under this chapter. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec.**  (1) By July 1, 2026, the department shall select a third-party administrator to administer and implement the wage replacement program under this chapter.

(2) At a minimum, the third-party administrator must have experience building and operating financial benefit systems that are proven to be accessible and responsive to the target population and demonstrated mechanisms to prevent disclosure of confidential or private information. The department may adopt rules for selecting and replacing the third-party administrator.

(3) Each quarter, to the extent allowed by the United States department of labor, employment and training administration, the department shall allocate the money in the wage replacement account in section 2 of this act to one or more third-party administrators for the purpose of providing payments to eligible and qualified applicants and for contracting with community-based organizations to notify individuals who may be eligible for this program.

(4) The third-party administrator selected under this section shall, within one year after the contract is awarded after the effective date of this section:

(a) Contract with one or more community-based organizations to provide outreach to unemployed individuals who may be eligible for payments under this chapter;

(b) Screen each applicant to determine if the applicant is eligible for payments;

(c) Make payments to eligible applicants; and

(d) Establish internal administrative processes for receiving and reviewing applications, making payments, and processing appeals regarding payment denials, suspensions, or terminations.

NEW SECTION. **Sec.**  (1) The department must appoint an advisory committee to review issues and topics of interest related to this chapter.

(2) The committee is composed of 11 members:

(a) Three members representing immigrants' interests;

(b) Two members representing workers' interests in unemployment, each of whom must be appointed from a list of names submitted by a recognized statewide organization of employees;

(c) Two members representing employers' interests in unemployment, each of whom must be appointed from a list of names submitted by a recognized statewide organization of employers;

(d) Three ex officio members, without a vote, representing the state commission on African American affairs, the state commission on Hispanic affairs, and the state commission on Asian Pacific American affairs; and

(e) One ex officio member, without a vote, representing the department and who will serve as the chair.

(3) The advisory committee must provide comment on implementation of this chapter, utilization of the program under this chapter, selection and performance of the third-party administrator, and study issues the advisory committee determines to require its consideration.

(4) The members must serve without compensation but are eligible for reimbursement of travel expenses as provided in RCW 43.03.050 and 43.03.060, and for stipends provided by the department under RCW 43.03.220. All expenses of the advisory committee must be paid by the Washington wage replacement account in section 2 of this act.

(5) The department must comply with the requirements of RCW 43.18A.020 in making appointments provided in this section. The department must provide the report required in RCW 43.18A.020.

NEW SECTION. **Sec.**  (1) Beginning January 1, 2027, a person may apply for payments under this chapter by filing an application with the third-party administrator. To be eligible for payments under this chapter, the applicant must:

(a) Be ineligible for benefits under Title 50 RCW based solely on not being authorized to work in the United States at the time the work was performed or during the week for which the applicant is seeking payments under this chapter;

(b) Be a resident of the state of Washington and have sufficient photographic identification confirming their identity;

(c) Have worked 680 hours in employment in their base year;

(d) Be unemployed through no fault of their own; and

(e) Have been unemployed for a waiting period of one week.

(2) The third-party administrator shall request information and documentation for verifying eligibility under this section. The third-party administrator may request additional information and documentation if the applicant's hours or wages are not verified by employer reports provided by the applicant to the third-party administrator. If, after the third-party administrator's request, the applicant fails to provide sufficient information or documentation, the applicant may be denied payments under this chapter.

(3) The third-party administrator may contract with a community-based organization to assist applicants in gathering information or documentation required under this section. The community-based organization may not communicate with employers regarding applicant eligibility.

(4) The third-party administrator must make the final decision on whether the applicant is eligible for payments under this chapter. The third-party administrator may utilize information or documentation provided by the applicant or any third-party, community-based organization contracted under this section.

NEW SECTION. **Sec.**  (1) If the third-party administrator determines the applicant is eligible for payments under this chapter, the applicant may qualify for weekly payments by self-attesting that the applicant meets the following requirements for each week of unemployment in which the applicant is applying for payments under this chapter:

(a) The applicant must be actively seeking work in any trade, occupation, profession, or business for which the applicant is reasonably fitted; and

(b) The applicant must report to the third-party administrator any wages or remuneration the applicant received.

(2) For the purposes of this section, "actively seeking work" means participating in job search, educational, or professional development activities.

(3) The third-party administrator may take reasonable steps to confirm the applicant's job search, educational, or professional development activities, and current unemployment status.

NEW SECTION. **Sec.**  (1) An applicant who is eligible and qualified for payments under this chapter must receive a weekly payment amount equal to the weekly benefit amount calculated in accordance with RCW 50.20.120 by the third-party administrator, subject to the availability of funds for this purpose and other conditions established under this chapter.

(2) Payments are payable to an eligible and qualified applicant during the applicant's payment year in a maximum amount equal to the lesser of 26 times the weekly payment amount, as determined under subsection (1) of this section, or one-third of the applicant's base year wages.

NEW SECTION. **Sec.**  If waiting period credit or the payment of amounts under this chapter are denied to any applicant for any week or weeks, the applicant must be promptly issued written notice of the denial and reasons for such denial by the third-party administrator.

NEW SECTION. **Sec.**  (1) An applicant is disqualified for payments under this chapter:

(a) If the third-party administrator finds that the applicant:

(i) Left the applicant's most recent work voluntarily without good cause, for which the third-party administrator may rely on the permitted good cause circumstances under RCW 50.20.050(2);

(ii) Was discharged for misconduct or gross misconduct connected with the applicant's most recent work; or

(iii) Knowingly made a false statement or representation involving a material fact or knowingly failed to report a material fact and, as a result, has obtained or attempted to obtain any payments under this chapter; or

(b) For any week an applicant has received, is receiving, or will receive compensation, under:

(i) Chapters 50.01 through 50.36 RCW;

(ii) Title 50A RCW;

(iii) RCW 51.32.060;

(iv) RCW 51.32.090; or

(v) Any other applicable federal unemployment compensation, industrial insurance, or state disability insurance laws.

(2) Cessation of operations by an employer for the purpose of granting vacations, whether by union contract or other reasons, must not be construed to be a voluntary quit or a voluntary unemployment on the part of the applicant.

NEW SECTION. **Sec.**  Payments under this chapter may only be distributed to an eligible applicant if moneys are available for this purpose in the funds distributed to the third-party administrator from the Washington wage replacement account in section 2 of this act.

NEW SECTION. **Sec.**  (1) If information provided to the department or the third-party administrator by another governmental agency is held private and confidential by state or federal laws, neither the department nor the third-party administrator may release such information.

(2) Information provided to the department or the third-party administrator by another governmental entity conditioned upon the privacy and confidentiality is to be held private and confidential according to the agreement between the department or the third-party administrator and other governmental entity.

NEW SECTION. **Sec.**  Any information or records concerning an applicant or employing unit obtained by the department or the third-party administrator pursuant to the administration of this chapter must be private and confidential, except as otherwise provided in this chapter. This chapter does not create a rule of evidence. Information or records may only be released by the department or the third-party administrator when the release is:

(1) To the person who is the subject of such records or an authorized representative;

(2) Necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to Article III of the United States Constitution, or judicial subpoena for specific records issued pursuant to the criminal procedure law or the civil practice law and rules; or

(3) Disclosed in a manner that could not be used to determine the identities of the applicants or employers to whom the data pertains, alone or in combination with other data.

NEW SECTION. **Sec.**  (1) In administering the program under this chapter, the department and the third-party administrator are prohibited from taking any of the following actions:

(a) Soliciting from the applicant, orally or in written form, an applicant's nationality, race, ethnicity, or place of birth;

(b) Indicating in its records which documents the applicant used to prove the applicant's age or identity;

(c) Compelling an applicant to admit in writing whether the applicant has proof of lawful presence in the United States or to explain why the applicant is ineligible for a social security number;

(d) Contacting an applicant's current, former, or prospective employers, including, but not limited to, for the purposes of verifying employment status for the program; and

(e) Soliciting or otherwise attempting to ascertain an applicant's immigration or citizenship status, except as necessary for the third-party administrator to determine whether an applicant is excluded from benefits under Title 50 RCW and eligible for payments under this chapter.

(2) The third-party administrator must destroy all records containing information that were provided by an applicant or collected by the department to verify eligibility for the program within 15 days of an applicant no longer using the program.

(3) As provided in RCW 42.56.410, any information under this chapter is not a public record and must not be disclosed or otherwise made accessible in response to any request for records except:

(a) To the person who is the subject of such records or an authorized representative;

(b) Where necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to Article III of the United States Constitution, or judicial subpoena for individual records issued pursuant to the criminal procedure law or the civil practice law and rules; or

(c) If disclosed in a manner that could not be used to determine the identities of the applicant or employers to whom the data pertains, alone or in combination with other data.

(4) For the purposes of this section, whenever a lawful court order, judicial warrant, or judicial subpoena for individual records properly issued pursuant to the criminal procedure law or the civil practice law and rules is presented to a court, only those records, documents, and information specifically sought by such court order, warrant, or subpoena may be disclosed.

(5) Notwithstanding any other law, information and records containing information that are collected or obtained by the state, any state agency, or any subdivision of the state, including agents of the state universities and community colleges, in addition to any private persons contracted to administer public services or programs, must only be collected, used, and retained for the purpose of assessing eligibility for and providing those public services and programs created by this chapter.

(6) No information collected under this chapter may be used for purposes of investigating, locating, or apprehending applicants for immigration-related violations including, but not exclusive to, queries or inquiries under 8 U.S.C. Secs. 1324, 1325, and 1326.

NEW SECTION. **Sec.**  The third-party administrator must create a process by which applicants can notify the administrator of payment errors and for collection and forgiveness of such overpayments.

NEW SECTION. **Sec.**  Any assignment, pledge, or encumbrance of any right to payments under this chapter which are or may become due or payable under this chapter must be void. Such rights to payments under this chapter must be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts. Payments under this chapter received by any individual, so long as they are not commingled with other funds of the recipient, must be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessaries furnished to such individual or their spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section must be void. Any agreement by an individual to waive, release, or commute their rights to payments or any other rights under this chapter must be void.

NEW SECTION. **Sec.**  The department may adopt rules as necessary to implement this chapter.

NEW SECTION. **Sec.**  (1) Nothing in this title may be construed to create:

(a) Any entitlement or right to services or payments; or

(b) A private right of action or claim on the part of any individual or applicant against the department or the third-party administrator.

(2) The legislature reserves the right to amend or repeal all or any part of this chapter at any time; and there must be no vested private right of any kind against such amendment or repeal. All the rights, privileges or immunities conferred by this chapter or by acts done pursuant thereto exist subject to the power of the legislature to amend or repeal this chapter at any time.

**Sec.**  RCW 42.56.410 and 2019 c 81 s 10 and 2019 c 13 s 68 are each reenacted and amended to read as follows:

The following information related to employment security is exempt from disclosure under this chapter:

(1) Records maintained by the employment security department and subject to chapter 50.13 or 50A.25 RCW if provided to another individual or organization for operational, research, or evaluation purposes ((~~are exempt from disclosure under this chapter~~)); ((~~and~~))

(2) Any inventory or data map records created under RCW 50.13.120(1)(b) that reveal the location of personal information or the extent to which it is protected; and

(3) Any information or records maintained by the employment security department or third-party administrator pursuant to chapter 50C.--- RCW (the new chapter created in section 22 of this act) except:

(a) To the person who is the subject of such records or an authorized representative;

(b) Where necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to Article III of the United States Constitution, or judicial subpoena for individual records issued pursuant to the criminal procedure law or the civil practice law and rules; or

(c) If disclosed in a manner that could not be used to determine the identities of the applicants or employers to whom the data pertains, alone or in combination with other data.

**Sec.**  RCW 50.29.025 and 2022 c 61 s 1 and 2022 c 17 s 1 are each reenacted and amended to read as follows:

(1) The contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection((~~, and the solvency surcharge determined under RCW 50.29.041, if any~~)).

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

|  |  |  |  |
| --- | --- | --- | --- |
| Benefit Ratio | | Rate  Class | Rate  (percent) |
| At least | Less than |
|  | 0.000001 | 1 | 0.00 |
| 0.000001 | 0.001250 | 2 | 0.11 |
| 0.001250 | 0.002500 | 3 | 0.22 |
| 0.002500 | 0.003750 | 4 | 0.33 |
| 0.003750 | 0.005000 | 5 | 0.43 |
| 0.005000 | 0.006250 | 6 | 0.54 |
| 0.006250 | 0.007500 | 7 | 0.65 |
| 0.007500 | 0.008750 | 8 | 0.76 |
| 0.008750 | 0.010000 | 9 | 0.88 |
| 0.010000 | 0.011250 | 10 | 1.01 |
| 0.011250 | 0.012500 | 11 | 1.14 |
| 0.012500 | 0.013750 | 12 | 1.28 |
| 0.013750 | 0.015000 | 13 | 1.41 |
| 0.015000 | 0.016250 | 14 | 1.54 |
| 0.016250 | 0.017500 | 15 | 1.67 |
| 0.017500 | 0.018750 | 16 | 1.80 |
| 0.018750 | 0.020000 | 17 | 1.94 |
| 0.020000 | 0.021250 | 18 | 2.07 |
| 0.021250 | 0.022500 | 19 | 2.20 |
| 0.022500 | 0.023750 | 20 | 2.38 |
| 0.023750 | 0.025000 | 21 | 2.50 |
| 0.025000 | 0.026250 | 22 | 2.63 |
| 0.026250 | 0.027500 | 23 | 2.75 |
| 0.027500 | 0.028750 | 24 | 2.88 |
| 0.028750 | 0.030000 | 25 | 3.00 |
| 0.030000 | 0.031250 | 26 | 3.13 |
| 0.031250 | 0.032500 | 27 | 3.25 |
| 0.032500 | 0.033750 | 28 | 3.38 |
| 0.033750 | 0.035000 | 29 | 3.50 |
| 0.035000 | 0.036250 | 30 | 3.63 |
| 0.036250 | 0.037500 | 31 | 3.75 |
| 0.037500 | 0.040000 | 32 | 4.00 |
| 0.040000 | 0.042500 | 33 | 4.25 |
| 0.042500 | 0.045000 | 34 | 4.50 |
| 0.045000 | 0.047500 | 35 | 4.75 |
| 0.047500 | 0.050000 | 36 | 5.00 |
| 0.050000 | 0.052500 | 37 | 5.15 |
| 0.052500 | 0.055000 | 38 | 5.25 |
| 0.055000 | 0.057500 | 39 | 5.30 |
| 0.057500 |  | 40 | 5.40 |

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

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

(B)(I) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011 and thereafter, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent except for rate year 2021 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2022 the calculation may not result in a flat social cost factor that is more than five-tenths percent, for rate year 2023 the calculation may not result in a flat social cost factor that is more than seven-tenths percent, for rate year 2024 the calculation may not result in a flat social cost factor that is more than eighty-five one-hundredths percent, and for rate year 2025 the calculation may not result in a flat social cost factor that is more than nine-tenths percent.

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

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

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

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

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

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

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

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

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

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

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

(A) Rate class 1 - 40 percent;

(B) Rate class 2 - 44 percent;

(C) Rate class 3 - 48 percent;

(D) Rate class 4 - 52 percent;

(E) Rate class 5 - 56 percent;

(F) Rate class 6 - 60 percent;

(G) Rate class 7 - 64 percent;

(H) Rate class 8 - 68 percent;

(I) Rate class 9 - 72 percent;

(J) Rate class 10 - 76 percent;

(K) Rate class 11 - 80 percent;

(L) Rate class 12 - 84 percent;

(M) Rate class 13 - 88 percent;

(N) Rate class 14 - 92 percent;

(O) Rate class 15 - 96 percent;

(P) Rate class 16 - 100 percent;

(Q) Rate class 17 - 104 percent;

(R) Rate class 18 - 108 percent;

(S) Rate class 19 - 112 percent;

(T) Rate class 20 - 116 percent; and

(U) Rate classes 21 through 40 - 120 percent.

(iii) For rate year 2023, for any employer with 10 or fewer employees as reported on the employer's fourth quarter report to the department for 2021 and whose rate class is greater than rate class 7, the employer's rate class, only for purposes of the rate classes in (b)(ii)(A) through (U) of this subsection (1), is rate class 7.

(iv) For the purposes of this section:

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

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

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

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

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

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

(D) For an employer who enters an approved agency-deferred payment contract as described in (c)(i)(B) or (C) of this subsection, but who fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the array calculation factor rate shall immediately revert to the applicable array calculation factor rate under (c)(i)(A) of this subsection; and

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

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

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

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

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

|  | History  Ratio |  | History  Factor  (percent) |
| --- | --- | --- | --- |
|  | At least | Less than |  |
| (A) |  | .95 | 90 |
| (B) | .95 | 1.05 | 100 |
| (C) | 1.05 |  | 115 |

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

**Sec.**  RCW 50.29.041 and 2021 c 2 s 19 are each amended to read as follows:

(1) Except for ((~~contributions assessed for~~)) rate years 2021, 2022, 2023, 2024, and 2025, ((~~the contribution rate of~~)) each employer subject to contributions under RCW 50.24.010 shall ((~~include~~)) pay a solvency surcharge determined as follows:

((~~(1)~~)) (a) This section shall apply to employers((~~' contributions~~)) for a rate year immediately following a cut-off date only if, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide fewer than seven months of unemployment benefits.

((~~(2)~~)) (b) The solvency surcharge shall be the lowest rate necessary, as determined by the commissioner, but not more than two-tenths of one percent, to provide revenue during the applicable rate year that will fund unemployment benefits for the number of months that is the difference between nine months and the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits.

((~~(3)~~)) (c) The basis for determining the number of months of unemployment benefits shall be the same basis used in RCW 50.29.025(1)(b)(i)(B).

(d) Funds collected under this subsection (1) shall be deposited into the unemployment compensation fund.

(2) Each employer subject to contributions under RCW 50.24.010 shall pay a wage replacement program surcharge determined as follows:

(a) For rate years 2026 and 2027, the rate shall be one one-hundredths of one percent;

(b) For rate years beginning in 2028 and thereafter, the commissioner shall determine the wage replacement program surcharge at the lowest rate necessary to provide revenue during the applicable rate year that will fund administration and payments of the program in chapter 50C.--- RCW (the new chapter created in section 22 of this act); however, the total combined rate of (b) of this subsection (2) and the rate provided in RCW 50.24.014(1)(a) may not exceed eight one-hundredths of one percent;

(c) Funds collected under this subsection (2) must be deposited into the Washington wage replacement account created in section 2 of this act.

**Sec.**  RCW 50.24.014 and 2023 c 475 s 934 are each amended to read as follows:

(1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever, except as provided in subsection (4) of this section. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of ((~~two~~)) one one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) A separate and identifiable account is established in the administrative contingency fund for financing the employment security department's administrative costs under RCW 50.22.150 and 50.22.155 and the costs under RCW 50.22.150(11) and 50.22.155 (1)(m) and (2)(m). All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become payable by each employer, except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, those employers who are required to make payments in lieu of contributions, those employers described under RCW 50.29.025(1)(d), and those qualified employers assigned rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at a basic rate of one one-hundredth of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010. Any amount of contributions payable under this subsection (1)(b) that exceeds the amount that would have been collected at a rate of four one-thousandths of one percent must be deposited in the account created in (a) of this subsection.

(2)(a) Contributions under this section shall become due and be paid by each employer under rules as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

(b) In the payment of any contributions under this section, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

(4) During the 2023-2025 fiscal biennium, moneys in the account in subsection (1)(a) of this section may be appropriated for poverty reduction programs that coordinate employment, training, education, and other existing systems designed to assist low-income individuals attain self-sufficiency.

NEW SECTION. **Sec.**  Sections 1 through 17 of this act constitute a new chapter in a new title to be codified as Title 50C RCW.

NEW SECTION. **Sec.**  If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state.

**--- END ---**