
HOUSE BILL 1568

State of Washington

67th Legislature

2021 Regular Session

By Representatives Bergquist and Gregerson

1 AN ACT Relating to unemployment insurance relief for small
2 businesses; adding a new section to chapter 50.16 RCW; adding new
3 sections to chapter 50.29 RCW; creating new sections; providing
4 expiration dates; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** (1) The legislature finds that certain
7 businesses in Washington have experienced significant and
8 unanticipated impacts during the COVID-19 pandemic. Small businesses
9 have fewer reserves and fewer resources to rely upon in periods of
10 downturn. Those businesses owned by historically disadvantaged
11 groups, such as women, minority populations, and immigrants, often
12 experience a compounding of those issues experienced across the
13 business community. These businesses form the backbone of
14 Washington's diverse and resilient economy, and their survival is
15 crucial to the state's continuing growth and vitality. For these
16 already disadvantaged small businesses, the economic impacts of the
17 COVID-19 pandemic have been particularly devastating.

18 (2) The legislature finds that ESSB 5061, passed by the
19 legislature and signed by the governor earlier in the 2021 session,
20 mitigated immediate impacts to employers through caps on the social

1 tax, suspension of the solvency surcharge, and relief of certain
2 benefit charges.

3 (3) The legislature now intends to address the disproportionate
4 impacts on small businesses beyond the limited time period addressed
5 in ESSB 5061, and particularly those small businesses in industry
6 sectors uniquely impacted by the COVID-19 pandemic. The legislature
7 intends to provide this targeted relief through the one-time
8 application of funds, in order to provide critical support for many
9 of the businesses that are essential to Washington's recovery and
10 ongoing economic vitality, while maintaining a healthy unemployment
11 insurance trust fund for Washington's workers.

12 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.16
13 RCW to read as follows:

14 (1) The unemployment insurance relief account is created in the
15 custody of the state treasurer. Revenues to the account consist of
16 appropriations and transfers by the legislature and all other funding
17 directed for deposit into the account. Only the commissioner of the
18 employment security department or the commissioner's designee may
19 authorize expenditures from the account. Expenditures from the
20 account may be used only for reimbursing the unemployment
21 compensation fund created in RCW 50.16.010 for forgiven benefits for
22 COVID-19 impacted businesses pursuant to sections 3 and 4 of this
23 act. The account is subject to the allotment procedures under chapter
24 43.88 RCW, but an appropriation is not required for expenditures.

25 (2) By July 1, 2022, the commissioner must certify to the state
26 treasurer the amount of any unobligated moneys in the unemployment
27 insurance relief account that were appropriated by the legislature
28 from the general fund during the 2021-2023 fiscal biennium, and the
29 treasurer must transfer those moneys back to the general fund.

30 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.29
31 RCW to read as follows:

32 (1) By October 1, 2021, the department must determine the
33 forgiven benefits for approved tier 1 employers to be reimbursed by
34 the unemployment insurance relief account instead of charged to the
35 employer's experience rating account. Total approved benefits for all
36 approved tier 1 employers may not exceed the available benefits for
37 tier 1.

1 (2) The department will not charge the forgiven benefits to the
2 employer's experience rating account. The commissioner must instead
3 transfer from the unemployment insurance relief account to the
4 unemployment compensation fund created in RCW 50.16.010 an amount
5 equal to the forgiven benefits.

6 (3) For the purposes of this section, the following definitions
7 apply:

8 (a) "Approved benefits" means benefits paid to employees of an
9 approved tier 1 employer during the fiscal year ending June 30, 2021,
10 not to exceed an amount that would reduce the employer's rate class
11 increase to no more than a one rate class increase. Approved benefits
12 must not include benefits that were not charged to the employer's
13 experience rating account or benefits otherwise relieved under RCW
14 50.29.021.

15 (b) "Approved tier 1 employer" means a contribution paying
16 employer:

17 (i) With 20 or fewer employees in the state as reported on the
18 employer's fourth quarter report to the department for 2019;

19 (ii) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
20 increased by two or more rate classes from rate year 2021 to rate
21 year 2022; and

22 (iii) Whose North American industry classification system code
23 for rate year 2021 is within "323," "448," "451," "453," "481,"
24 "485," "487," "488," "512," "519," "524," "532," "541," "561," "711,"
25 "713," "721," "722," "811," "812," and "813."

26 (c) "Available benefits for tier 1" means \$350,000,000 of the
27 total amount of money in the unemployment insurance relief account.

28 (d) "Forgiven benefits" means the approved benefits for an
29 individual employer multiplied by the forgiveness ratio.

30 (e) "Forgiveness ratio" is computed by dividing the available
31 benefits for tier 1 by the total approved benefits. The forgiveness
32 ratio cannot be more than one.

33 (f) "Total approved benefits" means the sum total of all approved
34 benefits.

35 (4) The department must adopt such rules as are necessary to
36 carry out the purposes of this section.

37 (5) This section expires July 30, 2022.

38 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.29
39 RCW to read as follows:

1 (1) After October 1, 2021, but before November 1, 2021, the
2 department must determine the forgiven benefits for approved tier 2
3 employers to be reimbursed by the unemployment insurance relief
4 account instead of charged to the employer's experience rating
5 account. Total approved benefits for all approved tier 2 employers
6 may not exceed the available benefits for tier 2.

7 (2) The department will not charge the forgiven benefits to the
8 employer's experience rating account. The commissioner must instead
9 transfer from the unemployment insurance relief account to the
10 unemployment compensation fund created in RCW 50.16.010 an amount
11 equal to the forgiven benefits.

12 (3) For the purposes of this section, the following definitions
13 apply:

14 (a) "Approved benefits" means benefits paid to employees of an
15 approved tier 2 employer during the fiscal year ending June 30, 2021,
16 not to exceed an amount that would reduce the employer's rate class
17 increase to no more than a two rate class increase. Approved benefits
18 must not include benefits that were not charged to the employer's
19 experience rating account or benefits otherwise relieved under RCW
20 50.29.021.

21 (b) "Approved tier 2 employer" means a contribution paying
22 employer:

23 (i) With more than 20 but fewer than 500 employees in the state
24 as reported on the employer's fourth quarter report to the department
25 for 2019;

26 (ii) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
27 increased by three or more rate classes from rate year 2021 to rate
28 year 2022; and

29 (iii) Whose North American industry classification system code
30 for rate year 2021 is within "323," "448," "451," "453," "481,"
31 "485," "487," "488," "512," "519," "524," "532," "541," "561," "711,"
32 "713," "721," "722," "811," "812," and "813."

33 (c) "Available benefits for tier 2" means the sum total of:

34 (i) The difference between the available benefits for tier 1, as
35 defined in section 3 of this act, and the total approved benefits for
36 approved tier 1 employers, as defined in section 3 of this act; and

37 (ii) \$150,000,000 of the total amount of money in the
38 unemployment insurance relief account.

39 (d) "Forgiven benefits" means the approved benefits for an
40 individual employer multiplied by the forgiveness ratio.

1 (e) "Forgiveness ratio" is computed by dividing the available
2 benefits for tier 2 by the total approved benefits. The forgiveness
3 ratio cannot be more than one.

4 (f) "Total approved benefits" means the sum total of all approved
5 benefits.

6 (4) The department must adopt such rules as are necessary to
7 carry out the purposes of this section.

8 (5) This section expires July 30, 2022.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 50.29
10 RCW to read as follows:

11 (1) After November 1, 2021, but before December 1, 2021, the
12 department must determine the forgiven benefits for approved tier 3
13 employers to be reimbursed by the unemployment insurance relief
14 account instead of charged to the employer's experience rating
15 account. Total approved benefits for all approved tier 3 employers
16 may not exceed the available benefits for tier 3.

17 (2) The department will not charge the forgiven benefits to the
18 employer's experience rating account. The commissioner must instead
19 transfer from the unemployment insurance relief account to the
20 unemployment compensation fund created in RCW 50.16.010 an amount
21 equal to the forgiven benefits.

22 (3) For the purposes of this section, the following definitions
23 apply:

24 (a) "Approved benefits" means benefits paid to employees of an
25 approved tier 3 employer during the fiscal year ending June 30, 2021,
26 not to exceed an amount that would reduce the employer's rate class
27 increase to no more than a four rate class increase. Approved
28 benefits must not include benefits that were not charged to the
29 employer's experience rating account or benefits otherwise relieved
30 under RCW 50.29.021.

31 (b) "Approved tier 3 employer" means a contribution paying
32 employer:

33 (i) Whose experience rating under RCW 50.29.025(1)(a)(ii) has
34 increased by six or more rate classes from rate year 2021 to rate
35 year 2022;

36 (ii) With fewer than 500 employees in the state as reported on
37 the employer's fourth quarter report to the department for 2019; and

1 (iii) Who does not meet the definition of approved tier 1
2 employer under section 3(3) of this act or approved tier 2 employer
3 under section 4(3) of this act.

4 (c) "Available benefits for tier 3" means the sum total of:

5 (i) The difference between the available benefits for tier 2, as
6 defined under section 4 of this act, and the total approved benefits
7 for approved tier 2 employers, as defined under section 4 of this
8 act; and

9 (ii) \$100,000,000 of the total amount of money in the
10 unemployment insurance relief account.

11 (d) "Forgiven benefits" means the approved benefits for an
12 individual employer multiplied by the forgiveness ratio.

13 (e) "Forgiveness ratio" is computed by dividing the available
14 benefits for tier 3 by the total approved benefits. The forgiveness
15 ratio cannot be more than one.

16 (f) "Total approved benefits" means the sum total of all approved
17 benefits.

18 (4) The department must adopt such rules as are necessary to
19 carry out the purposes of this section.

20 (5) This section expires July 30, 2022.

21 NEW SECTION. **Sec. 6.** If any part of this act is found to be in
22 conflict with federal requirements that are a prescribed condition to
23 the allocation of federal funds to the state or the eligibility of
24 employers in this state for federal unemployment tax credits, the
25 conflicting part of this act is inoperative solely to the extent of
26 the conflict, and the finding or determination does not affect the
27 operation of the remainder of this act. Rules adopted under this act
28 must meet federal requirements that are a necessary condition to the
29 receipt of federal funds by the state or the granting of federal
30 unemployment tax credits to employers in this state.

31 NEW SECTION. **Sec. 7.** This act is necessary for the immediate
32 preservation of the public peace, health, or safety, or support of
33 the state government and its existing public institutions, and takes
34 effect immediately.

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