

Unemployment Compensation Changes; Sub. for HB 2570

Sub. for HB 2570 makes various amendments to law related to unemployment compensation. The bill:

- Includes revisions to the unemployment compensation taxable wage base and tax rates;
- Modifies rate contributions for new employers;
- Provides for an annual write-off of a portion of negative unemployment compensation account balances for certain employers;
- Requires a reporting and audit process for interview non-participation;
- Provides for the suspension of state unemployment benefits when individuals are receiving certain federal unemployment benefits;
- Provides for minimum qualifications for members of the Employment Security Board of Review;
- Provides for extensions to the unemployment modernization process and the Unemployment Compensation Modernization and Improvement Council;
- Provides for temporary unemployment and extensions thereto;
- Allows certain school bus drivers to participate in work-share agreements;
- Abolishes the Employment Security Interest Assessment Fund;
- Revises annual Department of Labor reporting requirements; and
- Makes technical changes to the unemployment compensation system and unemployment compensation law.

Taxable Wage Base, Tax Rates, and Negative Account Balance Write-off

The taxable wage base for employer contributions to the Employment Security Fund, currently set at \$14,000, will become a percentage of the statewide average annual wage and progressively increase, as follows:

- 25.0 percent beginning in calendar year 2026;
- 30.0 percent beginning in calendar year 2028;
- 35.0 percent beginning in calendar year 2029; and
- 40.0 percent beginning in calendar year 2030.

Beginning in calendar year 2031, the wage base will remain at 40.0 percent of the statewide average annual wage unless any combination of employer contribution rate schedules G through M are in effect for any five preceding consecutive calendar years occurring after 2031. Should that occur, the bill will increase the taxable wage base to 45.0 percent of the statewide average annual wage regardless of changes to the rate tables. [Note: Rate schedules G through M include the standard rate table and the tables providing for solvency adjustments.]

The employer contribution rates provided in the rate schedules are revised to provide for a 0.0 percent rate group for the most positively rated employers, reduce rates for all positively rated employers, and make changes to solvency and credit rate adjustments in conformity with the adjustments to the wage base described above.

The bill decreases rates for new employers not eligible for rate-based contributions from 6.0 percent to 5.55 percent of calendar year wages paid for construction industry employers, and from 2.7 percent to 1.75 percent of calendar year wages paid for all other employers.

The bill provides, beginning July 1, 2024, for an annual calculated debt forgiveness option for active negative-rated employers with a reserve ratio of -7.150 percent or less. For such employers, a portion of benefit charges will be conditionally forgiven in order to bring the employer to a reserve ratio of -7.150 percent, and the employer is assigned to the lowest rate group for the next three calendar years. The bill provides that any such employer could avoid such assignment by foregoing the debt forgiveness option and submitting a voluntary contribution in an amount sufficient to establish their reserve ratio equal to or greater than -7.149 percent for the following calendar year.

The deadline for employers to make voluntary contributions for the purpose of reducing the employer's contribution rate is extended from 30 to 90 days following the date of mailing of experiences rating notices for the following calendar year.

The bill requires the Secretary of Labor (Secretary) to prepare contribution rate tables showing the cost for rated employers per employee for the previous, current, and ensuing rate year and publish such tables no less than 30 days prior to the end of the calendar year.

Interview Non-participation Audit Process (“Interview Ghosting”)

The bill requires the modernized unemployment compensation system to include an audit process permitting employers to submit reports regarding the work search requirement or My Reemployment Plan and related to applicants accepting interview appointments but not participating or notifying the employer of their inability to participate in the scheduled interview (“interview ghosting”).

The Secretary is required to notify employers of the reporting options in annual summaries of benefit changes and rate notices. The bill does not require the audit system to be implemented until a new unemployment compensation information technology system is completed.

Suspension of State Unemployment Benefits When Receiving Federal Unemployment Benefits

The bill requires, to the extent authorized by federal law, the suspension of state unemployment benefits when an individual is eligible for an equal or greater weekly benefit amount under a federal unemployment program. The suspension of state benefits terminates upon the exhaustion of the federal benefits and does not apply to any federal unemployment benefit that is paid in addition to the state weekly benefit amount.

Employment Security Board of Review Candidate Qualifications

The bill sets minimum qualifications for members of the Employment Security Board of Review, in order of priority:

- At least eight years of direct experience with human resources processes, policies, guidelines, or employee relations;
- At least three years of direct experience with employment security laws and processes; and
- Knowledge of unemployment and labor laws.

The bill requires applications for the Board to be submitted to the Director of Unemployment, who determines whether the applicant meets the required qualifications and submits qualified applicants to the Workers Compensation and Employment Security Boards Nominating Committee.

Unemployment Modernization Project Extensions and Unemployment Compensation Modernization and Improvement Council Sunset Extension

The bill authorizes the Legislative Coordinating Council (LCC) to extend the deadline for the full implementation of a new unemployment compensation information technology system as often as the LCC deems appropriate. The Secretary is required to provide written notice to the LCC and the Unemployment Compensation Modernization and Improvement Council (Council) at least 30 days prior to the expiration of the deadline indicating if an extension of the deadline is being sought and the basis for the extension. The bill permits the Council chairperson or any member to provide a written statement to the LCC regarding any extension.

The bill specifies that failure to provide written notice or meet any deadline does not affect the LCC's ability to extend the deadline and permits retroactive extensions of the deadline.

The bill also extends the sunset for the Council, from June 25, 2024, to December 31, 2026.

Temporary Unemployment

The bill defines "temporary unemployment" to mean an individual that has been laid off due to lack of work by an employing unit for which the individual has worked full-time and

reasonably expects to resume full-time work at a future date and the individual's employment with the employing unit has been temporarily suspended and not terminated.

Temporary unemployment generally is limited to eight consecutive weeks. However, an extension of eight additional weeks is permitted upon the Secretary's approval. The extension is allowed only upon a determination by the Secretary that the employer has filed all required employment security reports, paid all required contributions, and is primarily engaged in the production and distribution of ready-mixed concrete or the construction of streets, highways, elevated highways, roads, airport runways, public sidewalks, or bridges.

School Bus Driver Work-share

The bill permits school bus drivers employed by private companies to participate in work-share programs during the period between two successive academic years or a similar period between two successive terms of school.

Employment Security Interest Assessment Fund

The bill abolishes the Employment Security Interest Assessment Fund on July 1, 2024. Any balance of the Employment Security Interest Assessment Fund is transferred to the Employment Security Fund and any liabilities of the Employment Security Interest Assessment Fund are transferred to the State General Fund.

Business Acquisition Changes

The bill provides that, upon the completion of a business acquisition involving two employers, a new account is to be established and contribution rate determined as of the first day of the next calendar year, changed from the first day of the calendar quarter, following the completion of the business acquisition.

Electronic Filing and Payment Requirements

The bill requires all employers with 25 or more employees and all third-party administrators with 25 or more client employees to file all wage reports, contribution returns, payments, and interest assessments electronically.

Benefit Years Begin on Sunday

The bill modifies the definition of "benefit year" to specify that unemployment benefit years always begin on a Sunday.

Employer Charge Notice Modifications

The bill changes the timing of benefit charges for contributing employers and rated governmental employers from annually to quarterly and eliminates a provision that prohibits the application of charges to such employers when the amount of the charges is \$100 or less.

Department of Labor Annual Reporting

The bill requires annual Department of Labor reporting to include a differentiation of data for terminated and inactive accounts; the statewide average annual and weekly wage amounts; and, beginning in 2025, an annual memorandum submitted to the chairpersons, vice-chairpersons, and ranking minority members of the standing committees of the House and Senate to which employment security legislation is customarily referred, the President of the Senate, the Speaker of the House, the Governor, and the LCC.

The bill requires the memorandum to include data for contributing negative-rated employers for the current and three most recent years, including:

- An identifying number assigned to each employer other than the employer's account identification;
- The North American Industry Classification System (NAICS) code of the employer;
- The employer's account balance by fiscal year;
- The employer's taxable wages by fiscal year;
- The employer's calculated reserve ratio by fiscal year;
- The employer's taxable wage base by fiscal year;
- The benefits charged to the employer by fiscal year; and
- Whether work share was requested by and approved for the employer.

The bill also requires, starting in 2028, the annual report to include the total numbers of the following:

- Temporary unemployment weeks requested by the employer;
- Temporary unemployment weeks approved for the employer;
- Claimants who requested temporary unemployment against the employer's account independently from any request for temporary unemployment by the employer; and
- Temporary unemployment weeks charged against the employer's account that were claimed independently from any request for temporary unemployment by the employer.