

Introduction

Pursuant to RCW 34.05.328, the Employment Security Department (Department) hereby analyzes the costs and benefits of adopting the proposed rules modifying the hours unemployment claimants must be available for work in order to be eligible for unemployment benefits and updating factors used to determine suitable work.

Costs

COSTS FOR THE DEPARTMENT

The Department anticipates a one-time cost of \$80,000 to implement the amended rule. The costs include Information Technology updates, policy manual updates, and staff training.

COSTS FOR THE PUBLIC

Public costs from the proposed rule arise from possible changes to the tax rate assigned to employers. Employer contributions to the Unemployment Insurance Trust Fund (Trust Fund) are based on two factors: Experience Rating and Social Cost. Just as drivers with a history of at-risk behavior pay higher automobile insurance premiums, employers with a history of more benefit claims generally will pay a higher unemployment tax rate. For 2020, employers will pay unemployment taxes on the first \$52,700 of each employee's earnings. The estimated average unemployment tax rate for 2020 is 0.99%, down from 1.03% in 2019.

Experience Rating

An employer's experience rating is based on charged benefits to the individual employer. The experience-based tax is based on the amount of unemployment benefits paid to former employees over the previous four years. The four-year rolling average cushions the effect of one bad year for an employer. There are 40 experience-rate classes, and employers move up and down those classes based on their past experience. New businesses are charged an experience rating associated with their respective industry until the business establishes an individual experience rating, with a federal mandated minimum of 1% for new businesses.

In 2018, there were 123,903 Washington employers in experience-rate classes 1 through 5 with an average Unemployment Insurance (UI) tax rate of 0.34%, or an average of \$169 per employee per year. This accounted for 72% of total employers. There were 6,983 experience-rate class 40 employers, 3.77% of total employers, with a UI tax rate of 5.70%, or an average of \$2,838 per employee per year.

Social-Cost Tax

The social-cost tax is a secondary assessment that is assessed to all Washington employers. For 2019, the social-cost tax is graduated from 0.1% for rate-class 1 to 0.3% for rate-classes 21 through 40. The social-cost tax covers unemployment costs that cannot be recovered from specific businesses. During economic recessions, when benefits paid far exceed taxes collected, the social-cost tax acts as a brake to slow the decline of the Trust Fund so employers are not hit by sharper, more sudden tax increases.

Hours Of Availability Claims Costs

Due to the complexity of contribution calculations, the Department is unable to forecast the costs to individual businesses. The proposed rule will create additional claims that may be charged to employers, but the number of possible variables for claims precludes the Department from making a reliable forecast. The

following analysis is based on central tendencies of UI data from 2018 and hours of availability denials from July 1, 2017, through July 1, 2019.

The following analysis assumes that all previous unemployment claims that were denied because the claimant was unavailable would instead be allowed. In reality, the proposed rule does not state that all persons who file unemployment claims are automatically eligible for unemployment benefits despite availability, and it is highly likely that some number of the previous claims that were denied before would still be denied under the proposed rule. Therefore, the following analysis presents a “worst-case scenario” and overstates the potential economic impacts of the proposed rule.

From July 1, 2017 through July 1, 2019, the Department denied 22,105 claims for claimants who were *not available during the work hours and days usual for their type of work*. Each claim, on average, represents \$7,285 in charged benefits to an employer. When considering the total denied claims spread across the state-wide employer base, the proposed rule would increase each employers’ average charged benefits by \$130.48 per year. An increase of this size is unlikely to increase the tax liability for many employers. (Table 1).

Table 1 – Statewide aggregate with an additional approved claim

Experience Rate Class	Average Yearly Payroll	Average Yearly Charged Benefits	Benefits + Hours of Availability estimate (state-wide aggregate)	Adjusted Experience Rate Class	Adjusted Tax Rate	Adjusted Tax Rate Variance	Increased Tax Liability per Year
Class 5	\$1,122,264	\$16,517	\$16,647	6	.63%	+0.13%	\$64.74
Class 20	\$455,538	\$11,616	\$11,746	20	2.65%	-	-
Class 30	\$275,872	\$10,232	\$10,363	30	4.15%	-	-
Class 40	\$175,711	\$16,116	\$16,247	40	5.40%	-	-

For individual businesses, certain employers may be greatly impacted by a single claim while a single claim for certain employers will have no impact. For employers in experience-ratings classes 0 through 39, additional charged benefits of \$7,285 will move the employer into a higher experience-class rating. For employers in experience-rate class 40, however, there would be no additional tax liability. (Table 2).

Table 2 – Individual business with an additional approved claim

Experience Rate Class	Average Yearly Payroll	Average Yearly Charged Benefits	Benefits + Hours of Availability estimate (individual firm)	Adjusted Experience Rate Class	Adjusted Tax Rate	Adjusted Tax Rate Variance	Increased Tax Liability per Year
Class 5	\$1,122,264	\$16,517	\$23,775	21	2.80%	+2.30%	\$1,145.40
Class 20	\$455,538	\$11,616	\$18,874	31	4.30%	+1.65%	\$821.70
Class 30	\$275,872	\$10,232	\$17,490	40	5.40%	+1.25%	\$622.50
Class 40	\$175,711	\$16,116	\$23,401	40	5.40%	-	-

Benefits

Current availability requirements force many Washington workers to make difficult choices between providing care necessary for family members and being available for work during unattainable days and hours. Approximately forty percent of industries in Washington are classified as having customary hours of twenty-four hours a day, seven days a week. This forces claimants to be available morning, afternoons, and overnight, even if the claimant had not previously worked shifts during those time frames. Many claimants are unable to accept work different from previous work schedules due to obligations for providing care for a child or vulnerable adult, which precludes the claimant from receiving unemployment insurance benefits. By removing the requirement that claimants be available for “all of” the customary hours of the industry, claimants are provided flexibility to receive UI benefits while the claimant searches for new suitable employment while meeting obligations for providing care to family members.

Clarifying the definition of suitable work to include previous shifts of employment provides a level of protection for workers. The amended definition of suitable work removes hardships on claimants while protecting charged employers by preventing claimants from imposing undue restrictions on availability.

Conclusion

The rule change supports the Department’s mission to develop the nation’s best and most future ready workforce with opportunities for all by providing additional benefits and thereby economic stability to claimants while imposing negligible costs across the employer base. Therefore, the Department concludes the probable benefits of the proposed rule are greater than its probable costs.

Appendix

Assumptions

The estimates included in this analysis are based on the following assumptions:

- Employees earned at least \$49,800 during the base year (2019 taxable wage);
- All benefits are charged to a single employer;
- Claims are paid for the average number of weeks per claim from 2018: 15.6 weeks;
- Charged benefits are increased by one-fourth of the estimated additional charged benefits to account for the four-year experience rating cycle; and
- Claims meet all other eligibility requirements.

State-wide benefit charge calculation:

$$\frac{(\text{Total Benefit Claims from Jan 2017 – Aug 2019})}{(\text{Average Firms Jan 2017 – Aug 2019})} \times \frac{(\text{Number of Months in period})}{12}$$

2018 Experience Rate Classes

Class	Number of Firms	Class	Number of Firms	Class	Number of Firms	Class	Number of Firms	Class	Number of Firms
1	105225	9	2644	17	1160	25	633	33	697
2	10610	10	2329	18	1037	26	586	34	645
3	6365	11	2119	19	925	27	513	35	560
4	5489	12	1884	20	883	28	498	36	516
5	5092	13	1711	21	839	29	464	37	451
6	4205	14	1530	22	774	30	485	38	462
7	3917	15	1434	23	689	31	415	39	405
8	3361	16	1248	24	586	32	769	40	6451
Total									170,539

2018 Taxable Wages per Experience-Rate Class

Class	Taxable Wages	Class	Taxable Wages	Class	Taxable Wages	Class	Taxable Wages	Class	Taxable Wages
1	\$7,602,041,582	9	\$2,600,679,707	17	\$572,101,352	25	\$255,176,108	33	\$227,548,773
2	\$5,552,724,934	10	\$1,874,431,673	18	\$517,845,637	26	\$205,343,855	34	\$180,004,674
3	\$6,825,674,397	11	\$1,609,290,249	19	\$364,143,814	27	\$238,795,653	35	\$245,098,410
4	\$6,160,105,998	12	\$1,304,064,095	20	\$446,882,398	28	\$205,885,116	36	\$172,799,596
5	\$6,400,765,493	13	\$1,049,317,440	21	\$396,779,435	29	\$180,496,179	37	\$149,413,802
6	\$4,717,877,850	14	\$863,500,900	22	\$314,183,016	30	\$149,246,852	38	\$128,128,276
7	\$3,424,083,613	15	\$832,704,387	23	\$307,357,505	31	\$153,334,795	39	\$108,340,954
8	\$3,036,800,822	16	\$607,453,399	24	\$314,828,929	32	\$269,243,533	40	\$1,226,987,609
Total									2,438,322,094