SENATE BILL REPORT
SB 6885

As Reported By Senate Committee On:
Labor, Commerce, Research & Development, February 2, 2006

Title: An act relating to unemployment insurance.

Brief Description: Modifying unemployment insurance provisions.

Sponsors: Senators Kohl-Welles, McAuliffe, Thibaudeau, Keiser and Fairley.

Brief History:
Committee Activity: Labor, Commerce, Research & Development: 2/2/06 [DPS, DNP].

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 6885 be substituted therefor, and the substitute bill do pass.
Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Brown, Keiser and Prentice.

Minority Report: Do not pass.
Signed by Senators Parlette, Ranking Minority Member; Hewitt and Honeyford.

Staff: Jennifer Strus (786-7316)

Background: The unemployment insurance system is a federal/state program under which employers pay contributions to fund unemployment compensation for unemployed workers. These payments are made under state unemployment laws and the Federal Unemployment Tax Act (FUTA). The FUTA allows the states' employers to receive a tax credit against their federal unemployment tax. The state receives a share of the federal FUTA revenues for administration of its unemployment insurance system, but only if the state maintains an unemployment insurance system in conformity with federal law. Washington's program is administered by the Employment Security Department.

Unemployment Benefits
Before January of 2004, a claimant's weekly benefit amount (WBA) was 4 percent of the claimant's average wages in the two quarters of the base year in which wages were highest. The 2003 legislation established new methods of calculating the WBA for claims with specified effective dates: *On or after January 4, 2004, and before January 2, 2005*: The WBA was calculated using 4 percent of the claimant's average wages in the three quarters of the base year in which wages were highest. *On or after January 2, 2005*: The WBA is 1 percent of the claimant's total wages in the base year.

For claims with an effective date on or after April 24, 2005 and before July 1, 2007, the claimant's weekly benefit amount (WBA) is calculated using 3.85% of the claimant's average wages in the two quarters in the base year in which the wages were the highest. The benefits

paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of annual wages are not charged to contribution paying employers' experience rating accounts.
The 2003 legislation also repealed a requirement for the unemployment insurance system to be "liberally construed." The 2005 legislation restored this requirement until June 30, 2007.

Unemployment Taxes

2003 Legislation: The 2003 legislation created a new unemployment tax system. Beginning with rate year 2005, the unemployment insurance contribution rate for most covered employers is determined by the combined array calculation factor rate and the social cost factor rate, subject to a maximum rate, and solvency surcharge, if any. These rates are determined as follows:

Array calculation factor: Employers are placed in one of 40 rate classes, with rates from 0 percent to 5.4 percent. The assigned rate class depends on the employer's layoff experience.

Social cost factor: A flat social cost rate is calculated as the difference between benefits paid and taxes paid, divided by total taxable payroll. The amount is then adjusted for the months of benefits in the trust fund above 10 months, but the rate may not be less than 0.6 percent. Employers pay a graduated social cost factor rate, ranging from 78 percent to 120 percent of the flat rate, depending on the employer's rate class.

Maximum rate for the sum of the array calculation factor and the social cost factor: For employers in fishing, agriculture, and food and seafood processing, the maximum rate is 6 percent. For employers in all other industries, the maximum rate is 6.5 percent.

Solvency surcharge: Up to an additional 0.2 percent surcharge is added to the contribution rate in the next rate year if the unemployment trust fund has fewer than 6 months of benefits on a specified annual date.Not all benefits paid are charged to the employers' experience rating accounts. By law, noncharging of benefits is required for specified reasons, and these costs are pooled within the system as social costs.

2005 Legislation: For fiscal years 2006 and 2007, the social cost factor rate is zero for employers in agricultural crops, livestock, agricultural services, food and seafood processing, fishing, and cold storage.

For tax rate year 2007, the flat social cost factor is the lesser of the rate applicable with the new WBA calculations in effect or the rate that would have been applicable if the WBA had been calculated as 1 percent of a claimant's annual wages.

The formula is adjusted for determining the social cost factor in rate year 2007 to account for benefits that are not effectively charged because of these changes in the social cost factor.

When paying unemployment benefits, beginning in fiscal year 2006 and through calendar year 2007, funds are first requisitioned from the Reed Act funds in the amount of the benefits that are not effectively charged because the social cost factor rate is reduced to zero for certain industries and in the amount of benefits paid that exceed the benefits that would have been paid if the WBA had been calculated as 1 percent of a claimant's annual wages.

Summary of Substitute Bill: The expiration date for the weekly benefit amount calculation is removed and the use of "two quarter averaging" with a 3.85 multiplier is made permanent. The language requiring liberal construction of the unemployment compensation law is permanently retained.

Beginning with the 2007 tax rate year, the maximum taxable wage base is reduced to 75 percent of the state average annual wage. The maximum tax rate for specified industries, including agriculture and fishing is reduced from 6.0 percent to 5.7 percent. The "zero" graduated social cost factor rate for certain industries, including agriculture and fishing is terminated on July 1, 2006.

The flat social cost factor rate reduction calculation (under which the rate is reduced depending on the trust fund balance on September 1) is reduced by the following:

- if 11 months of benefits are in the fund, the maximum reduction is 0.2 and the minimum rate 0.6 percent (same as current law);
- if 12 to 13 months of benefits are in the fund, the maximum reduction is 0.3 and the minimum rate 0.55; and
- if 14 or more months of benefits are in the fund, the maximum reduction is 0.4 and the minimum rate 0.50.

The total social cost is calculated using four years of contribution and benefit data (instead of one year). The changes in the calculation of the social cost factor rate and the requisitioning of funds from the unemployment trust fund that applied only to rate year 2007 are deleted. The solvency tax applies only if the trust fund balance has fewer than eight months of benefits (instead of six months).

Substitute Bill Compared to Original Bill: A technical date change was added.

Appropriation: None.

Fiscal Note: Requested on February 1, 2006.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The unemployment insurance trust fund is very healthy right now and as a result, it makes sense to adjust some of the formulas that determine how much in taxes an employer will pay. Four quarter averaging had a devastating effect on claimants and this bill . brings the system back into balance. Between 6097 and 2255 the changes have saved business $1 billion over 6 years. There will be $500-$800 million in savings for businesses if this bill passes. Construction is a unique industry in Washington and we need a good UI system to keep people in Washington because some industries face worker shortages. Unemployment insurance is designed to protect a skilled workforce and 6097 swung the pendulum too far one way and 2255 brought it back some; this bill restores equity for both employers and employees.

Testimony Against: None.

Testimony Other: The flat social tax rate changes and smoothing are very helpful to small businesses. This bill increases the costs of benefits and the goal has been to have a competitive UI cost system. We must look at the costs because the costs drive the system. There are three provisions in the bill that shift costs: 1) two quarter averaging; 2) no meaningful provisions for seasonal community; and 3) reduces the maximum taxable wage base. These result in an increase in socialized costs. The stable small business community will absorb more of the costs that business communities like agriculture cannot absorb. Businesses in Tax rates 1-7 will have significant tax increases. The better approach is a targeted benefit program.

Who Testified: PRO: Annette Copeland, ESD; Jeff Johnson, WSLC; Dave Johnson, Building Trades; Pete Crow, Washington State Association of Plumbers; John Littel, NW Carpenters.

OTHER: Jan Gee, Washington Retail Association; Brian Minnich, BIAW; Bruce Beckett, Weyerhaeuser; Chris Cheney.