House of Representatives

General Assembly

File No. 653

January Session, 2021

Substitute House Bill No. 6633

House of Representatives, May 10, 2021

The Committee on Finance, Revenue and Bonding reported through REP. SCANLON of the 98th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT RESTRUCTURING UNEMPLOYMENT INSURANCE BENEFITS AND IMPROVING FUND SOLVENCY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (b) of section 31-222 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2022*):

(b) (1) "Total wages" means all remuneration for employment and dismissal payments, including the cash value of all remuneration paid in any medium other than cash except the cash value of any remuneration paid for agricultural labor or domestic service in any medium other than cash.

(2) "Taxable wages" means total wages except:

(A) That part of the remuneration (i) in excess of seven thousand one hundred dollars paid by an employer to an individual during any calendar year commencing on or after January 1, 1983, and prior to January 1, 1994, (ii) in excess of nine thousand dollars paid by an employer to an individual during the calendar year commencing on January 1, 1994, (iii) in excess of an amount equal to the taxable wages for the prior year increased by one thousand dollars so paid during any

calendar year commencing on or after January 1, 1995, but prior to January 1, 1999, **[**or**]** (iv) in excess of fifteen thousand dollars for any calendar year commencing on or after January 1, 1999, but prior to January 1, 2024, (v) in excess of twenty-five thousand dollars for the calendar year commencing on January 1, 2024, or (vi) for each calendar year commencing on or after January 1, 2025, in excess of an amount equal to the taxable wages for the prior year (I) adjusted by the percentage change in the employment cost index or its successor index, for wages and salaries for all civilian workers, as calculated by the United States Department of Labor, over the twelve-month period ending on June thirtieth of the preceding year, and (II) rounded to the nearest multiple of one hundred dollars. This subsection shall not apply to wages paid in whole or in part from federal funds after January 1, 1976, to employees of towns, cities and other political and governmental subdivisions and shall not operate to reduce an individual's benefit rights. Remuneration paid to an individual by an employer with respect to employment in another state or states upon which contributions were required of and paid by such employer under an unemployment compensation law of such other state or states shall be included as a part of remuneration equal to the maximum limitation herein referred to;

(B) Dismissal payments **[**which**]** that the employer who is not subject to the Federal Unemployment Tax Act is not legally required to make;

(C) Payments **[**which**]** that the employer is not legally required to make to employees on leave of absence for military training;

(D) The payment by an employer, without deduction from the remuneration of the employee, of the tax imposed upon an employee under Section 3101 of the Federal Internal Revenue Code with respect to remuneration paid to the employee for domestic service in a private home of the employer or for agricultural labor;

(E) The amount of any payment excluded from "wages", as defined in Section 3306(b) of the Federal Unemployment Tax Act, that is made to, or on behalf of, an employee under a plan or system established by an employer **[**which**]** that makes provision for **[**his**]** such employer's

employees generally or for a class or classes of **[**his**]** such employer's employees, including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment, on account of (i) retirement, or (ii) sickness or accident disability, or (iii) medical and hospitalization expenses in connection with sickness or accident disability, or (iv) death. Whenever tips or gratuities are paid directly to an employee by a customer of an employer, the amount thereof **[**which**]** that is accounted for by the employee to the employer shall be considered wages for the purposes of this chapter;

(F) If an employer has acquired all or substantially all the assets, organization, trade or business of another employer liable for contributions under this chapter and has assumed liability for unpaid contributions, if any, due from such other employer, remuneration paid by both employers shall be deemed paid by a single employer for the purposes of this chapter;

(G) Payment to an employee by a stock corporation, partnership, association or other business entity in which fifty per cent or more of the proprietary interest is owned by such employee or **[**his**]** such employee's son, daughter, spouse, father or mother or any combination of such persons, unless the tax imposed by the Federal Unemployment Tax Act is payable with respect to such payment;

(H) Any remuneration paid by any town, city or other political subdivision to an individual for service performed in lieu of payment of delinquent taxes.

(3) Notwithstanding any other provisions of this subsection, wages shall include all remuneration for services with respect to which a tax is required to be paid under any federal law imposing a tax against which credit may be taken for contributions required to be paid into a state unemployment fund or **[**which**]** that as a condition for full tax credit against the tax imposed by the Federal Unemployment Tax Act are required to be included under this chapter.

Sec. 2. Section 31-225a of the general statutes, as amended by section

26 of public act 19-25 and section 235 of public act 19-117, is repealed and the following is substituted in lieu thereof (*Effective January 1, 2022*):

(a) As used in this chapter: **[**, "qualified employer"**]**

(1) "Qualified employer" means each employer subject to this chapter whose experience record has been chargeable with benefits for at least one full experience year, with the exception of employers subject to a flat entry rate of contributions as provided under subsection **[**(d)**]** (e) of this section, employers subject to the maximum contribution rate under subsection (c) of section 31-273, and reimbursing employers; **[**"contributing employer"**]**

(2) "Contributing employer" means an employer who is assigned a percentage rate of contribution under the provisions of this section; **[**"reimbursing employer"**]**

(3) "Reimbursing employer" means an employer liable for payments in lieu of contributions as provided under section 31-225; **[**"benefit charges"**]**

(4) "Benefit charges" means the amount of benefit payments charged to an employer's experience account under this section; **[**"computation date"**]**

(5) "Computation date" means June thirtieth of the year preceding the tax year for which the contribution rates are computed; **[**"tax year"**]**

(6) "Tax year" means the calendar year immediately following the computation date; **[**"experience year"**]**

(7) "Experience year" means the twelve consecutive months ending on June thirtieth; and **[**"experience period"**]**

(8) "Experience period" means the three consecutive experience years ending on the computation date, except that if the employer's account has been chargeable with benefits for less than three years, the experience period shall consist of the greater of one or two consecutive

experience years ending on the computation date, except that for tax year 2026, "experience period" means one experience year ending on the computation date and for tax year 2027, "experience period" means two consecutive experience years ending on the computation date.

(b) (1) The administrator shall maintain for each employer, except reimbursing employers, an experience account in accordance with the provisions of this section.

(2) With respect to each benefit year commencing on or after July 1, 1978, regular and additional benefits paid to an individual shall be allocated and charged to the accounts of the employers who paid the individual wages in his or her base period in accordance with the following provisions: The initial determination establishing a claimant's weekly benefit rate and maximum total benefits for his or her benefit year shall include, with respect to such claimant and such benefit year, a determination of the maximum liability for such benefits of each employer who paid wages to the claimant in his or her base period. An employer's maximum total liability for such benefits with respect to a claimant's benefit year shall bear the same ratio to the maximum total benefits payable to the claimant as the total wages paid by the employer to the claimant within his or her base period bears to the total wages paid by all employers to the claimant within his or her base period. This ratio shall also be applied to each benefit payment. The amount thus determined, rounded to the nearest dollar with fractions of a dollar of exactly fifty cents rounded upward, shall be charged to the employer's account.

(c) (1) (A) Any week for which the employer has compensated the claimant in the form of wages in lieu of notice, dismissal payments or any similar payment for loss of wages shall be considered a week of employment for the purpose of determining employer chargeability.

(B) No benefits shall be charged to any employer who paid wages of five hundred dollars or less to the claimant in his or her base period.

(C) No dependency allowance paid to a claimant shall be charged to

any employer.

(D) In the event of a natural disaster declared by the President of the United States, no benefits paid on the basis of total or partial unemployment **[**which**]** that is the result of physical damage to a place of employment caused by severe weather conditions including, but not limited to, hurricanes, snow storms, ice storms or flooding, or fire except where caused by the employer, shall be charged to any employer.

(E) If the administrator finds that (i) an individual's most recent separation from a base period employer occurred under conditions **[**which**]** that would result in disqualification by reason of subdivision (2), (6) or (9) of subsection (a) of section 31-236, as amended by this act, or (ii) an individual was discharged for violating an employer's drug testing policy, provided the policy has been adopted and applied consistent with sections 31-51t to 31-51aa, inclusive, section 14-261b and any applicable federal law, no benefits paid thereafter to such individual with respect to any week of unemployment **[**which**]** that is based upon wages paid by such employer with respect to employment prior to such separation shall be charged to such employer's account, provided such employer shall have filed a notice with the administrator within the time allowed for appeal in section 31-241.

(F) No base period employer's account shall be charged with respect to benefits paid to a claimant if such employer continues to employ such claimant at the time the employer's account would otherwise have been charged to the same extent that he or she employed him or her during the individual's base period, provided the employer shall notify the administrator within the time allowed for appeal in section 31-241.

(G) If a claimant has failed to accept suitable employment under the provisions of subdivision (1) of subsection (a) of section 31-236, as amended by this act, and the disqualification has been imposed, the account of the employer who makes an offer of employment to a claimant who was a former employee shall not be charged with any benefit payments made to such claimant after such initial offer of reemployment until such time as such claimant resumes employment

with such employer, provided such employer shall make application therefor in a form acceptable to the administrator. The administrator shall notify such employer whether or not his or her application is granted. Any decision of the administrator denying suspension of charges as herein provided may be appealed within the time allowed for appeal in section 31-241.

(H) Fifty per cent of benefits paid to a claimant under the federal-state extended duration unemployment benefits program established by the federal Employment Security Act shall be charged to the experience accounts of the claimant's base period employers in the same manner as the regular benefits paid for such benefit year.

(I) No base period employer's account shall be charged with respect to benefits paid to a claimant who voluntarily left suitable work with such employer (i) to care for a seriously ill spouse, parent or child, or (ii) due to the discontinuance of the transportation used by the claimant to get to and from work, as provided in subparagraphs (A)(ii) and (A)(iii) of subdivision (2) of subsection (a) of section 31-236, as amended by this act.

(J) No base period employer's account shall be charged with respect to benefits paid to a claimant who has been discharged or suspended because the claimant has been disqualified from performing the work for which he or she was hired due to the loss of such claimant's operator license as a result of a drug or alcohol test or testing program conducted in accordance with section 14-44k, 14-227a or 14-227b while the claimant was off duty.

(K) No base period employer's account shall be charged with respect to benefits paid to a claimant whose separation from employment is attributable to the return of an individual who was absent from work due to a bona fide leave taken pursuant to sections 31-49f to 31-49t, inclusive, or 31-51kk to 31-51qq, inclusive.

(L) On and after January 1, 2024, (i) no base period employer's account shall be charged with respect to benefits paid to a claimant

through the voluntary shared work unemployment compensation program established pursuant to section 31-274j, if a claim for benefits is filed in a week in which the average rate of total unemployment in the state equals or exceeds six and one-half per cent based on the most recent three months of data published by the Labor Commissioner, and (ii) the Labor Commissioner may determine that no base period employer's account shall be charged with respect to benefits paid to a claimant through the voluntary shared work unemployment compensation program established pursuant to section 31-274j, if a claim for benefits is filed in a week in which the average rate of total unemployment in the state equals or exceeds eight per cent in the most recent one month of data published by the Labor Commissioner.

(2) All benefits paid **[**which**]** that are not charged to any employer shall be pooled.

(3) The noncharging provisions of this chapter, except subparagraphs (D), (F) and (K) of subdivision (1) of this subsection, shall not apply to reimbursing employers.

(d) The standard rate of contributions shall be five and four-tenths per cent. Each employer who has not been chargeable with benefits, for a sufficient period of time to have his or her rate computed under this section shall pay contributions at a rate that is the higher of (1) one per cent, or (2) the state's five-year benefit cost rate. For purposes of this subsection, the state's five-year benefit cost rate shall be computed annually on or before June thirtieth and shall be derived by dividing the total dollar amount of benefits paid to claimants under this chapter during the five consecutive calendar years immediately preceding the computation date by the five-year payroll during the same period. If the resulting quotient is not an exact multiple of one-tenth of one per cent, the five-year benefit cost rate shall be the next higher such multiple.

(e) (1) (A) As of each June thirtieth, the administrator shall determine the charged tax rate for each qualified employer. **[**Said**]** Such rate shall be obtained by calculating a benefit ratio for each qualified employer. The employer's benefit ratio shall be the quotient obtained by dividing

the total amount chargeable to the employer's experience account during the experience period by the total of his or her taxable wages during such experience period **[**which**]** that have been reported by the employer to the administrator on or before the following September thirtieth. The resulting quotient, expressed as a per cent, shall constitute the employer's charged **[**tax**]** rate, **[**. If**}** except that each employer's charged rate for calendar years 2024 and 2025 shall be divided by 1.471 and 1.269, respectively.

(i) For calendar years commencing prior to January 1, 2024, if the resulting quotient is not an exact multiple of one-tenth of one per cent, the charged rate shall be the next higher such multiple, except that if the resulting quotient is less than five-tenths of one per cent, the charged rate shall be five-tenths of one per cent and if the resulting quotient is greater than five and four-tenths per cent, the charged rate shall be five and four-tenths per cent. **[**The employer's charged tax rate will be in accordance with the following table:

Employer's Charged Tax Rate Table

Employer's Benefit Ratio	Employer's Charged Tax Rate
.005 or less	.5% minimum subject
.006	.6% to fund
.007	.7% solvency
.008	.8% adjustment
.009	.9%
.010	1.0%
.011	1.1%
.012	1.2%
.013	1.3%
.014	1.4%
.015	1.5%
.016	1.6%
.017	1.7%

T19	.018	1.8%
T20	.019	1.9%
T21	.020	2.0%
T22	.021	2.1%
T23	.022	2.2%
T24	.023	2.3%
T25	.024	2.4%
T26	.025	2.5%
T27	.026	2.6%
T28	.027	2.7%
T29	.028	2.8%
T30	.029	2.9%
T31	.030	3.0%
T32	.031	3.1%
T33	.032	3.2%
T34	.033	3.3%
T35	.034	3.4%
T36	.035	3.5%
T37	.036	3.6%
T38	.037	3.7%
T39	.038	3.8%
T40	.039	3.9%
T41	.040	4.0%
T42	.041	4.1%
T43	.042	4.2%
T44	.043	4.3%
T45	.044	4.4%
T46	.045	4.5%
T47	.046	4.6%
T48	.047	4.7%
T49	.048	4.8%
T50	.049	4.9%
T51	.050	5.0%
T52	.051	5.1%
T53	.052	5.2%

.053	5.3%	
.054 & higher	5.4%	maximum subject to fund solvency adjustment**]**

(ii) For calendar years commencing on or after January 1, 2024, if the resulting quotient is less than one-tenth of one per cent, the charged rate shall be one-tenth of one per cent and if the resulting quotient is greater than ten per cent, the charged rate shall be ten per cent.

(B) If the benefit ratios calculated pursuant to subparagraph (A) of this subdivision would result in the average benefit ratio of all employers within a sector of the North American Industry Classification System increasing over the current such average by an amount equal to or greater than .01, the benefit ratio of each employer within such sector shall be adjusted downward by an amount equal to one-half of the increase in the average benefit ratio of all employers within such sector. Sectors 21 and 23 of said system shall be considered one sector for the purposes of this subparagraph.

(2) (A) Each contributing employer subject to this chapter shall pay an assessment to the administrator at a rate established by the administrator sufficient to pay interest due on advances from the federal unemployment account under Title XII of the Social Security Act (42 U.S. Code Sections 1321 to 1324). The administrator shall establish the necessary procedures for payment of such assessments. The amounts received by the administrator based on such assessments shall be paid over to the State Treasurer and credited to the General Fund. Any amount remaining from such assessments, after all such federal interest charges have been paid, shall be transferred to the Employment Security Administration Fund or to the Unemployment Compensation Advance Fund established under section 31-264a, (i) to the extent that any federal interest charges have been paid from the Unemployment Compensation Advance Fund, (ii) to the extent that the administrator determines that reimbursement is appropriate, or (iii) otherwise to the extent that reimbursement of the advance fund is the appropriate accounting

principle governing the use of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments.

(B) On and after January 1, 1994, and conditioned upon the issuance of any revenue bonds pursuant to section 31-264b, each contributing employer shall also pay an assessment to the administrator at a rate established by the administrator sufficient to pay the interest due on advances from the Unemployment Compensation Advance Fund and reimbursements required for advances from the Unemployment Compensation Advance Fund, computed in accordance with subsection (h) of section 31-264a. The administrator shall establish the assessments as a percentage of the charged tax rate for each employer pursuant to subdivision (1) of this subsection. The administrator shall establish the necessary procedures for billing, payment and collection of the assessments. Sections 31-265 to 31-274, inclusive, shall apply to the collection of such assessments by the administrator. The payments received by the administrator based on the assessments, excluding interest and penalties on past due assessments, are hereby pledged and shall be paid over to the State Treasurer for credit to the Unemployment Compensation Advance Fund.

(f) (1) (A) For each calendar year commencing with calendar year 1994 but prior to calendar year 2013, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund equal to eight-tenths of one per cent of the total wages paid to workers covered under this chapter by contributing employers during the year ending the last preceding June thirtieth. If the fund balance tax rate established by the administrator results in a fund balance in excess of said per cent as of December thirtieth of any year, the administrator shall, in the year next following, establish a fund balance tax rate sufficient to eliminate the fund balance in excess of said per cent.

(B) For each calendar year commencing with calendar year 2013, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund

that results in an average high cost multiple equal to 0.5.

(C) Commencing with calendar year 2014 and ending with calendar year 2018, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund that results in an average high cost multiple that is increased by 0.1 from the preceding calendar year.

(D) Commencing with calendar year 2019, the administrator shall establish a fund balance tax rate sufficient to maintain a balance in the Unemployment Compensation Trust Fund that results in an average high cost multiple equal to 1.0. If the fund balance tax rate established by the administrator results in a fund balance in excess of the amount prescribed in this subdivision as of December thirtieth of any year, the administrator shall, in the year next following, establish a fund balance rate sufficient to eliminate the fund balance in excess of said amount.

(E) The assessment levied by the administrator at any time **[**(A)**]** (i) during a calendar year commencing on or after January 1, 1994, but prior to January 1, 1999, shall not exceed one and five-tenths per cent, **[**(B)**]** (ii) during a calendar year commencing on or after January 1, 1999, but prior to January 1, 2013, shall not exceed one and four-tenths per cent, and shall not be calculated to result in a fund balance in excess of eight-tenths of one per cent of such total wages, **[**and (C)**]** (iii) during a calendar year commencing on or after January 1, 2013, but prior to January 1, 2024, shall not exceed one and four-tenths per cent and shall not be calculated to result in a fund balance in excess of the amounts prescribed in this subdivision, **[**.**]** and (iv) during a calendar year commencing on or after January 1, 2024, shall not exceed one per cent and shall not be calculated to result in a fund balance in excess of the amounts prescribed in this subdivision.

(F) During a calendar year that begins during an economic recession declared by the National Bureau of Economic Research on or before November fifteenth of the prior calendar year, the assessment levied by the administrator shall not exceed one-half of one per cent unless such maximum rate jeopardizes the state's access to interest-free federal

advances, including, but not limited to, those offered pursuant to 42 USC 1322 and subject to the funding goals established in 20 CFR 606.32, as amended from time to time.

(2) The average high cost multiple shall be computed as follows: The result of the balance of the Unemployment Compensation Trust Fund on December thirtieth immediately preceding the new rate year divided by the total wages paid to workers covered under this chapter by contributing employers for the twelve months ending on the December thirtieth immediately preceding the new rate year shall be the numerator and the average of the three highest calendar benefit cost rates in (A) the last twenty years, or (B) a period including the last three recessions, whichever is longer, shall be the denominator. Benefit cost rates are computed as benefits paid including the state's share of extended benefits but excluding reimbursable benefits as a per cent of total wages in covered employment. The results rounded to the next lower one decimal place will be the average high cost multiple.

(g) Each qualified employer's contribution rate for each calendar year after 1973 shall be a percentage rate equal to the sum of his or her charged tax rate as of the June thirtieth preceding such calendar year and the fund balance tax rate as of December thirtieth preceding such calendar year.

(h) (1) With respect to each benefit year commencing on or after July 1, 1978, notice of determination of the claimant's benefit entitlement for such benefit year shall include notice of the allocation of benefit charges of the claimant's base period employers and each such employer shall be provided a copy of such notice of determination and shall be an interested party thereto. Such determination shall be final unless the claimant or any of such employers files an appeal from such decision in accordance with the provisions of section 31-241.

(2) The administrator shall, not less frequently than once each calendar quarter, provide a statement of charges to each employer to whose experience record any charges have been made since the last previous such statement. Such statement shall show, with respect to

each week for which benefits have been paid and charged, the name and Social Security account number of the claimant who was paid the benefit, the amount of the benefits charged for such week and the total amount charged in the quarter.

(3) The statement of charges provided for in subdivision (2) of this subsection shall constitute notice to the employer that it has been determined that the benefits reported in such statement were properly payable under this chapter to the claimants for the weeks and in the amounts shown in such statements. If the employer contends that benefits have been improperly charged due to fraud or error, a written protest setting forth reasons therefor shall be filed with the administrator within sixty days of the date the quarterly statement was provided. An eligibility issue shall not be reopened on the basis of such quarterly statement if notification of such eligibility issue had previously been given to the employer under the provisions of section 31-241, and he or she failed to file a timely appeal therefrom or had the issue finally resolved against him or her.

(4) The provisions of subdivisions (2) and (3) of this subsection shall not apply to combined wage claims paid under subsection (b) of section 31-255. For such combined wage claims paid under the unemployment law of other states, the administrator shall, each calendar quarter, provide a statement of charges to each employer whose experience record has been charged since the previous such statement. Such statement shall show the name and Social Security number of the claimant who was paid the benefits and the total amount of the benefits charged in the quarter.

(i) (1) At the written request of any employer **[**which**]** that holds at least eighty per cent controlling interest in another employer or employers, the administrator may mingle the experience rating records of such dominant and controlled employers as if they constituted a single employer, subject to such regulations as the administrator may make and publish concerning the establishment, conduct and dissolution of such joint experience rating records.

(2) The executors, administrators, successors or assigns of any former employer shall acquire the experience rating records of the predecessor employer with the following exception: The experience of a predecessor employer, who leased premises and equipment from a third party and who has not transferred any assets to the successor, shall not be transferred if there is no common controlling interest in the predecessor and successor entities.

(3) The administrator is authorized to establish such regulations governing joint accounts as may be necessary to comply with the requirements of the federal Unemployment Tax Act.

(j) (1) Each employer subject to this chapter shall submit quarterly, on forms supplied by the administrator, a listing of wage information, including the name of each employee receiving wages in employment subject to this chapter, such employee's Social Security account number and the amount of wages paid to such employee during such calendar quarter.

(2) Commencing with the first calendar quarter of 2014, each employer subject to this chapter **[**who**]** that reports wages for employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, reports wages for employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall submit quarterly the information required by subdivision (1) of this subsection on magnetic tape, diskette, or other similar electronic means **[**which**]** that the administrator may prescribe, in a format prescribed by the administrator, unless such employer or agent receives a waiver pursuant to subdivision (5) of this subsection.

(3) Any employer that fails to submit the information required by subdivision (1) of this subsection in a timely manner, as determined by the administrator, shall be liable to the administrator for a late filing fee of twenty-five dollars. Any employer that fails to submit the information required by subdivision (1) of this subsection under a proper state unemployment compensation registration number shall be liable to the

administrator for a fee of twenty-five dollars. All fees collected by the administrator under this subdivision shall be deposited in the Employment Security Administration Fund.

(4) Commencing with the first calendar quarter of 2014, each employer subject to this chapter **[**who**]** that makes contributions or payments in lieu of contributions for employees receiving wages in employment subject to this chapter, and each person or organization that, as an agent, makes contributions or payments in lieu of contributions for employees receiving wages in employment subject to this chapter on behalf of one or more employers subject to this chapter shall make such contributions or payments in lieu of contributions electronically.

(5) Any employer or any person or organization that, as an agent, submits information pursuant to subdivision (2) of this subsection or makes contributions or payments in lieu of contributions pursuant to subdivision (4) of this subsection may request in writing, not later than thirty days prior to the date a submission of information or a contribution or payment in lieu of contribution is due, that the administrator waive the requirement that such submission or contribution or payment in lieu of contribution be made electronically. The administrator shall grant such request if, on the basis of information provided by such employer or person or organization and on a form prescribed by the administrator, the administrator finds that there would be undue hardship for such employer or person or organization. The administrator shall promptly inform such employer or person or organization of the granting or rejection of the requested waiver. The decision of the administrator shall be final and not subject to further review or appeal. Such waiver shall be effective for twelve months from the date such waiver is granted.

(k) The employer may inspect his or her account records in the office of the Employment Security Division at any reasonable time.

Sec. 3. Subsection (a) of section 31-236 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January*

1, 2022):

(a) An individual shall be ineligible for benefits:

(1) If the administrator finds that the individual has failed without sufficient cause either to apply for available, suitable work when directed so to do by the Public Employment Bureau or the administrator, or to accept suitable employment when offered by the Public Employment Bureau or by an employer, such ineligibility to continue until such individual has returned to work and has earned at least six times such individual's benefit rate. Suitable work means either employment in the individual's usual occupation or field or other work for which the individual is reasonably fitted, provided such work is within a reasonable distance of the individual's residence. In determining whether or not any work is suitable for an individual, the administrator may consider the degree of risk involved to such individual's health, safety and morals, such individual's physical fitness and prior training and experience, such individual's skills, such individual's previous wage level and such individual's length of unemployment, but, notwithstanding any **[**other**]** provision of this chapter, no work shall be deemed suitable nor shall benefits be denied under this chapter to any otherwise eligible individual for refusing to accept work under any of the following conditions: (A) If the position offered is vacant due directly to a strike, lockout or other labor dispute; (B) if the wages, hours or other conditions of work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (C) if, as a condition of being employed, the individual would be required to join a company union or to resign from or refrain from joining any bona fide labor organization; (D) if the position offered is for work **[**which**]** <u>that</u> commences or ends between the hours of one and six o'clock in the morning if the administrator finds that such work would constitute a high degree of risk to the health, safety or morals of the individual, or would be beyond the physical capabilities or fitness of the individual or there is no suitable transportation available from the individual's home to or from the individual's place of employment; or (E) if, as a condition of being

employed, the individual would be required to agree not to leave such position if recalled by the individual's former employer;

(2) (A) If, in the opinion of the administrator, the individual has left suitable work voluntarily and without good cause attributable to the employer, until such individual has earned at least ten times such individual's benefit rate, provided whenever an individual voluntarily leaves part-time employment under conditions that would render the individual ineligible for benefits, such individual's ineligibility shall be limited as provided in subsection (b) of this section, if applicable, and provided further, no individual shall be ineligible for benefits if the individual leaves suitable work (i) for good cause attributable to the employer, including leaving as a result of changes in conditions created by the individual's employer, (ii) to care for the individual's spouse, child, or parent with an illness or disability, as defined in subdivision (16) of this subsection, (iii) due to the discontinuance of transportation, other than the individual's personally owned vehicle, used to get to and from work, provided no reasonable alternative transportation is available, (iv) to protect the individual, the individual's child, the individual's spouse or the individual's parent from becoming or remaining a victim of domestic violence, as defined in section 17b-112a, provided such individual has made reasonable efforts to preserve the employment, but the employer's account shall not at any time be charged with respect to any voluntary leaving that falls under subparagraph (A)(iv) of this subdivision, (v) for a separation from employment that occurs on or after July 1, 2007, to accompany a spouse who is on active duty with the armed forces of the United States and is required to relocate by the armed forces, but the employer's account shall not at any time be charged with respect to any voluntary leaving that falls under subparagraph (A)(v) of this subdivision, or (vi) to accompany such individual's spouse to a place from which it is impractical for such individual to commute due to a change in location of the spouse's employment, but the employer's account shall not be charged with respect to any voluntary leaving under subparagraph (A)(vi) of this subdivision; or

(B) [if] If, in the opinion of the administrator, the individual has been discharged or suspended for felonious conduct, conduct constituting larceny of property or service, the value of which exceeds twenty-five dollars, or larceny of currency, regardless of the value of such currency, wilful misconduct in the course of the individual's employment, or participation in an illegal strike, as determined by state or federal laws or regulations, until such individual has earned at least ten times the individual's benefit rate; provided an individual who (i) while on layoff from regular work, accepts other employment and leaves such other employment when recalled by the individual's former employer, (ii) leaves work that is outside the individual's regular apprenticeable trade to return to work in the individual's regular apprenticeable trade, (iii) has left work solely by reason of governmental regulation or statute, or (iv) leaves part-time work to accept full-time work, shall not be ineligible on account of such leaving and the employer's account shall not at any time be charged with respect to such separation, unless such employer has elected payments in lieu of contributions;

(3) During any week in which the administrator finds that the individual's total or partial unemployment is due to the existence of a labor dispute other than a lockout at the factory, establishment or other premises at which the individual is or has been employed, provided the provisions of this subsection do not apply if it is shown to the satisfaction of the administrator that (A) the individual is not participating in or financing or directly interested in the labor dispute that caused the unemployment, and (B) the individual does not belong to a trade, class or organization of workers, members of which, immediately before the commencement of the labor dispute, were employed at the premises at which the labor dispute occurred, and are participating in or financing or directly interested in the dispute; or (C) the individual's unemployment is due to the existence of a lockout. A lockout exists whether or not such action is to obtain for the employer more advantageous terms when an employer (i) fails to provide employment to its employees with whom the employer is engaged in a labor dispute, either by physically closing its plant or informing its employees that there will be no work until the labor dispute has

terminated, or (ii) makes an announcement that work will be available after the expiration of the existing contract only under terms and conditions that are less favorable to the employees than those current immediately prior to such announcement; provided in either event the recognized or certified bargaining agent shall have advised the employer that the employees with whom the employer is engaged in the labor dispute are ready, able and willing to continue working pending the negotiation of a new contract under the terms and conditions current immediately prior to such announcement;

(4) **[**During**]** (A) Prior to January 1, 2024, during any week with respect to which the individual has received or is about to receive remuneration in the form of **[**(A)**]** (i) (I) wages in lieu of notice or dismissal payments, including severance or separation payment by an employer to an employee beyond the employee's wages upon termination of the employment relationship, unless the employee was required to waive or forfeit a right or claim independently established by statute or common law, against the employer as a condition of receiving the payment, or any payment by way of compensation for loss of wages, or (II) any other state or federal unemployment benefits, except mustering out pay, terminal leave pay or any allowance or compensation granted by the United States under an Act of Congress to an ex-serviceperson in recognition of the ex-serviceperson's former military service, or any service-connected pay or compensation earned by an ex-serviceperson paid before or after separation or discharge from active military service, or **[**(B)**]** (ii) compensation for temporary disability under any workers' compensation law; and

(B) On or after January 1, 2024, during any week with respect to which the individual has received or is about to receive remuneration in the form of (i) (I) wages in lieu of notice or dismissal payments, including severance or separation payment by an employer to an employee beyond the employee's wages upon termination of the employment relationship or any payment by way of compensation for loss of wages, (II) any other state or federal unemployment benefits, or (III) any vacation pay relating to an identifiable week or weeks

designated as a vacation period by arrangement between the individual or the individual's representative and the individual's employer or that is the customary vacation period in the employer's industry. The following are excluded from this subparagraph: Mustering out pay, terminal leave pay or any allowance or compensation granted by the United States under an Act of Congress to an ex-serviceperson in recognition of the ex-serviceperson's former military service, or any service-connected pay or compensation earned by an ex-serviceperson paid before or after separation or discharge from active military service, or any payment of accrued vacation pay payable upon separation from employment, or (ii) compensation for temporary disability under any workers' compensation law;

(5) Repealed by P.A. 73-140;

(6) If the administrator finds that the individual has left employment to attend a school, college or university as a regularly enrolled student, such ineligibility to continue during such attendance;

(7) Repealed by P.A. 74-70, S. 2, 4;

(8) If the administrator finds that, having received benefits in a prior benefit year, the individual has not again become employed and been paid wages since the commencement of said prior benefit year in an amount equal to the greater of three hundred dollars or five times the individual's weekly benefit rate by an employer subject to the provisions of this chapter or by an employer subject to the provisions of any other state or federal unemployment compensation law;

(9) If the administrator finds that the individual has retired and that such retirement was voluntary, until the individual has again become employed and has been paid wages in an amount required as a condition of eligibility as set forth in subdivision (3) of section 31-235; except that the individual is not ineligible on account of such retirement if the administrator finds (A) that the individual has retired because (i) such individual's work has become unsuitable considering such individual's physical condition and the degree of risk to such

individual's health and safety, and (ii) such individual has requested of such individual's employer other work that is suitable, and (iii) such individual's employer did not offer such individual such work, or (B) that the individual has been involuntarily retired;

(10) Repealed by P.A. 77-426, S. 6, 19;

(11) Repealed by P.A. 77-426, S. 6, 19;

(12) Repealed by P.A. 77-426, S. 17, 19;

(13) If the administrator finds that, having been sentenced to a term of imprisonment of thirty days or longer and having commenced serving such sentence, the individual has been discharged or suspended during such period of imprisonment, until such individual has earned at least ten times such individual's benefit rate;

(14) If the administrator finds that the individual has been discharged or suspended because the individual has been disqualified under state or federal law from performing the work for which such individual was hired as a result of a drug or alcohol testing program mandated by and conducted in accordance with such law, until such individual has earned at least ten times such individual's benefit rate;

(15) If the individual is a temporary employee of a temporary help service and the individual refuses to accept suitable employment when it is offered by such service upon completion of an assignment until such individual has earned at least six times such individual's benefit rate; and

(16) (A) For purposes of subparagraph (A)(ii) of subdivision (2) of this subsection, "illness or disability" means an illness or disability diagnosed by a health care provider that necessitates care for the ill or disabled person for a period of time longer than the employer is willing to grant leave, paid or otherwise, and "health care provider" means **[**(A)**]** (i) a doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices; **[**(B)**]** (ii) a podiatrist, dentist, psychologist, optometrist or chiropractor

authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; **[**(C)**]** (iii) an advanced practice registered nurse, nurse practitioner, nurse midwife or clinical social worker authorized to practice by the state in which such person practices and performs within the scope of the authorized practice; **[**(D)**]** (iv) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; **[**(E)**]** (v) any medical practitioner from whom an employer or a group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits; **[**(F)**]** (vi) a medical practitioner, in a practice enumerated in **[**subparagraphs (A) to (E)**]** clauses (i) to (v), inclusive, of this **[**subdivision**]** subparagraph, who practices in a country other than the United States, who is licensed to practice in accordance with the laws and regulations of that country; or **[**(G)**]** (vii) such other health care provider as the Labor Commissioner approves, performing within the scope of the authorized practice.

(B) For purposes of subparagraph (B) of subdivision (2) of this subsection, "wilful misconduct" means deliberate misconduct in wilful disregard of the employer's interest, or a single knowing violation of a reasonable and uniformly enforced rule or policy of the employer, when reasonably applied, provided such violation is not a result of the employee's incompetence and provided further, in the case of absence from work, "wilful misconduct" means an employee must be absent without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances for three separate instances within a twelve-month period. Except with respect to tardiness, for purposes of subparagraph (B) of subdivision (2) of this subsection, (i) prior to January 1, 2024, each instance in which an employee is absent for one day or two consecutive days without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the circumstances constitutes a "separate instance", and (ii) on or after January 1, 2024, each instance in which an employee is absent for one day without either good cause for the absence or notice to the employer which the employee could reasonably have provided under the

circumstances constitutes a "separate instance".

(C) For purposes of subdivision (15) of this subsection, "temporary help service" means any person conducting a business that consists of employing individuals directly for the purpose of furnishing part-time or temporary help to others; and "temporary employee" means an employee assigned to work for a client of a temporary help service.

Sec. 4. Section 31-231a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2022*):

(a) (1) For a construction worker identified pursuant to regulations adopted in accordance with subsection (c) of this section, the total unemployment benefit rate for the individual's benefit year commencing on or after April 1, 1996, shall be an amount equal to one twenty-sixth, rounded to the next lower dollar, of **[**his**]** the individual's total wages paid during that quarter of **[**his**]** the individual's current benefit year's base period in which wages were the highest but not less than fifteen dollars. **[**nor**]**

(2) The total unemployment benefit rate for the individual's benefit year commencing on January 1, 2024, shall be not less than forty dollars, except that when the federal government provides a fully federally-funded supplement to the individual's weekly benefit amount, the total unemployment benefit rate shall be not less than fifteen dollars.

(3) The total unemployment benefit rate for the individual's benefit year commencing on or after January 1, 2025, shall be not less than the total unemployment benefit rate for the prior year (A) adjusted by the percentage change in the employment cost index or its successor index, for wages and salaries for all civilian workers, as calculated by the United States Department of Labor, over the twelve-month period ending on June thirtieth of the preceding year, and (B) rounded to the nearest dollar, except that when the federal government provides a fully federally-funded supplement to the individual's weekly benefit amount, the total unemployment benefit rate shall be not less than fifteen dollars.

(4) The maximum weekly benefit rate under this subsection shall be not more than the maximum benefit rate as provided in subdivision (4) of subsection (b) of this section.

(b) (1) For an individual not included in subsection (a) of this section, the individual's total unemployment benefit rate for **[**his**]** the individual's benefit year commencing after September 30, 1967, shall be an amount equal to one twenty-sixth, rounded to the next lower dollar, of the average of **[**his**]** the individual's total wages, as defined in subdivision (1) of subsection (b) of section 31-222, as amended by this act, paid during the two quarters of **[**his**]** the individual's current benefit year's base period in which such wages were highest but not less than fifteen dollars. **[**nor**]**

(2) The total unemployment benefit rate for the individual's benefit year commencing on January 1, 2024, shall be not less than forty dollars, except that when the federal government provides a fully federally-funded supplement to the individual's weekly benefit amount, the total unemployment benefit rate shall be not less than fifteen dollars.

(3) The total unemployment benefit rate for the individual's benefit year commencing on or after January 1, 2025, shall be not less than the total unemployment benefit rate for the prior year (A) adjusted by the percentage change in the employment cost index or its successor index, for wages and salaries for all civilian workers, as calculated by the United States Department of Labor, over the twelve-month period ending on June thirtieth of the preceding year, and (B) rounded to the nearest dollar, except that when the federal government provides a fully federally-funded supplement to the individual's weekly benefit amount, the total unemployment benefit rate shall be not less than fifteen dollars.

(4) (A) The maximum weekly benefit rate shall not be more than one hundred fifty-six dollars in any benefit year commencing on or after the first Sunday in July, 1982, nor more than **[**(1)**]** (i) sixty per cent rounded to the next lower dollar of the average wage of production and related workers in the state in any benefit year commencing on or after the first

Sunday in October, 1983, and **[**(2)**]** (ii) fifty per cent rounded to the next lower dollar of the average wage of all workers in the state in any benefit year commencing on or after the first Sunday in October, 2018. **[**, and provided the**]** The maximum benefit rate in any benefit year commencing on or after the first Sunday in October, 1988, shall not increase more than eighteen dollars in any benefit year, such increase to be effective as of the first Sunday in October of such year, except that the maximum benefit rate shall not increase in the benefit years commencing on the first Sunday in October of 2024, 2025, 2026 and 2027.

(B) The average wage of all workers in the state shall be determined by **[**(A)**]** (i) the administrator, on or before August fifteenth annually, as of the year ended the previous March thirty-first to be effective during the benefit year commencing on or after the first Sunday of the following October, and **[**(B)**]** (ii) the Connecticut Quarterly Census of Employment and Wages or by such other method, as determined by the administrator, that accurately reflects the average wage of all workers in the state.

(c) The administrator shall adopt regulations pursuant to the provisions of chapter 54 to implement the provisions of this section. Such regulations shall specify the National Council on Compensation Insurance employee classification codes **[**which**]** that identify construction workers covered by subsection (a) of this section and specify the manner and format in which employers shall report the identification of such workers to the administrator.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*January 1, 2022*	31-222(b)
Sec. 2	*January 1, 2022*	31-225a
Sec. 3	*January 1, 2022*	31-236(a)
Sec. 4	*January 1, 2022*	31-231a

FIN *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 22 $	FY 23 $
Labor Dept.	UCF - Savings	See Below	See Below
Labor Dept.	UCF - Revenue Gain	See Below	See Below
Labor Dept.	GF - Cost	None	Potential Significant

Note: UCF=Unemployment Compensation Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill, which makes a number of changes to the unemployment insurance system beginning in FY 24, results in the following fiscal impacts to the Unemployment Compensation Trust Fund (UCF):

Expenditures

- Freezing the maximum weekly benefit rate for four years results in a savings of approximately $33 million annually by 2027.

- Increasing, from $600 to $1,600, the minimum earnings claimants need to qualify for the minimum benefit and indexing it to inflation results in a savings of approximately $1.25 million annually beginning in FY 24.

- Eliminating the exception that allows certain claimants to receive unemployment benefits during a week for which they received severance pay or vacation pay results in a savings of approximately $50 million per year beginning in FY 24.

- Shortening the length of certain absences from work for which an employee may be fired and disqualified for benefits results in a minimal savings beginning in FY 24.

Revenues

- Increasing, from $15,000 to $25,000, the taxable wage base and indexing it to inflation, and adjusting the fund solvency and experience tax rates results in an estimated revenue gain of $130.9 million annually beginning in FY 24.[1]

The bill also results in potentially significant implementation costs to the Department of Labor beginning in FY 23. Any potential costs are dependent on: 1) how much is performed in-house versus by a contractor, and 2) if federal funds cover a portion of the costs.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

[1] Solvency tax revenue would eventually drop in future years as the UCF becomes solvent.

OLR Bill Analysis

sHB 6633

AN ACT RESTRUCTURING UNEMPLOYMENT INSURANCE BENEFITS AND IMPROVING FUND SOLVENCY.

SUMMARY

This bill makes several changes in the unemployment system. Among its changes, beginning in 2024, the bill does the following:

1. generally increases the minimum weekly benefit from $15 to $40 and requires it to be annually adjusted for inflation, except when the federal government is providing additional payments to claimants;

2. generally increases the minimum earnings claimants need to qualify for the minimum benefit from $600 to $1,600 (annually adjusted for inflation);

3. freezes the maximum benefit rate for certain claims initially filed in 2024, 2025, 2026, and 2027;

4. increases the taxable wage base from $15,000 to $25,000 and requires it to be annually adjusted for inflation;

5. reduces employers' experience tax rates for 2024 and 2025 and temporarily reduces the experience period used for calculating employers' experience rates for 2026 and 2027;

6. expands the range of experience tax rates, from the current range of 0.5% to 5.4% to the bill's range of 0.1% to 10%;

7. creates a "non-charge" against an employer's experience rate for benefits paid to a claimant through the Shared Work program for claims filed when the state's average rate of unemployment exceeds a specified threshold;

8. generally reduces the maximum fund balance rate from 1.4% to 1.0%;

9. eliminates an exception that allows certain claimants to receive unemployment benefits during a week for which they received severance pay;

10. prohibits claimants from receiving benefits during any week for which they received specified vacation pay; and

11. shortens the length of certain absences from work for which an employee may be fired and disqualified for benefits.

Additionally, the bill requires the Department of Labor (DOL) to cap the fund balance rate at 0.5% during a recession, unless doing so would jeopardize the state's access to interest-free federal loans. It also requires DOL to adjust the experience rates for employers in industry sectors that are experiencing above average employment losses in those sectors.

EFFECTIVE DATE: January 1, 2022

MINIMUM BENEFITS AND EARNINGS

For benefit years commencing during 2024, the bill increases the minimum weekly unemployment benefit from $15 to $40 for all workers. However, it requires the minimum benefit to be $15 when the federal government provides a fully federally funded supplement to the individual's weekly benefit amount.

For subsequent benefit years, the bill generally requires the minimum benefit to be adjusted for inflation. Under the bill, the minimum benefit must be (1) adjusted by the percentage change in the U.S. DOL's employment cost index (or its successor index) for wages and salaries for all civilian workers over the 12-month period ending on June 30 of the preceding year and (2) rounded to the nearest dollar. This inflationary adjustment does not apply when the minimum benefit is set to $15 as described above.

Because the law generally requires claimants to have earned at least

40 times their weekly benefit during their base period to qualify for benefits, increasing the minimum benefit also increases what these claimants must earn over the course of their base period to qualify for the minimum benefit (CGS § 31-235). So, to qualify for the bill's $40 minimum weekly benefit, claimants must have earned at least $1,600 ($40 x 40) over their base period, instead of the $600 required by current law. The minimum base period earnings required to qualify for benefits changes in subsequent benefit years based on the inflationary adjustments described above.

MAXIMUM BENEFIT FREEZE

Existing law caps the maximum benefit allowed for any unemployment claimant at 50% of the average wage of all workers in the state. Under current law, the labor commissioner must adjust the cap on the first Sunday of each October, but cannot increase it more than $18 each year. The bill prohibits the commissioner from increasing the cap in the benefit years starting on the first Sunday in October 2024, 2025, 2026, and 2027. (Because a claimant's benefit year, generally, begins on the Sunday of the week in which he or she files an initial claim for benefits, it appears that the bill's benefit freeze would only apply to claimants who filed an initial claim during the week of the first Sunday in October 2024, 2025, 2026, or 2027.)

TAXABLE WAGE BASE

Beginning January 1, 2024, the bill increases the taxable wage base from the current $15,000 to $25,000. In general, the taxable wage base is the amount of wages paid to each employee on which the employer must pay unemployment taxes. The bill also requires the taxable wage base to be (1) annually adjusted for inflation, beginning January 1, 2025, by the percentage change in the U.S. DOL's employment cost index (or its successor index) for wages and salaries for all civilian workers over the 12-month period ending on June 30 of the preceding year and (2) rounded to the nearest multiple of $100.

EXPERIENCE RATE

Benefit Ratio for 2024-2027

Under current law, DOL annually determines each employer's experience rate by calculating a benefit ratio for the employer over the previous three years (i.e., the experience period). This is the ratio between the amount charged to the employer's experience account for benefits paid to former employees and the amount of the employer's taxable wages. Under the bill, each employer's charged rate for the 2024 and 2025 calendar years must be divided by 1.471 and 1.269, respectively. This will reduce employers' experience rates by roughly 32% in 2024 and 21% in 2025. The bill also shortens the experience period for 2026 and 2027 from the previous three years to the previous year for 2026 and previous two years for 2027.

Tax Rate

Under current law, the experience tax rate ranges from a 0.5% minimum for employers with a benefit ratio of 0.005 or less to a 5.4% maximum for employers with a benefit ratio of 0.54 or greater. Beginning with the 2024 calendar year, the bill lowers the minimum rate to 0.1% for employers with a benefit ratio of 0.1% or less and increases the maximum rate to 10% for employers with a benefit ratio of 10% or more.

Benefit Ratio Adjustment for Certain Industry Sectors

Starting on January 1, 2022, if the average benefit ratio of all employers within an industry sector (based on the North American Industry Classification System) increases over its current average by 0.01 or greater (which would increase experience rates by at least one percentage point), the bill requires the department to adjust the benefit ratio for each employer in that sector downward by 50% of the average increase for the sector. (Presumably, a sector's "current" average is its average immediately before the experience rates are annually recalculated.) The mining and construction sectors are considered one sector for purposes of this adjustment.

Shared Work Program Non-Charge

In general, a portion of an employer's unemployment insurance taxes are based on the employer's "experience rate," which reflects the

amount of unemployment benefits paid to the employer's former employees over a certain period. The law, however, allows several non-charging separations in which an employee can collect benefits without affecting a former employer's experience rate (in these instances, the benefits paid to the former employee are "pooled" and paid by all employers who pay unemployment taxes).

Beginning January 1, 2024, the bill allows a non-charge for employees who are paid benefits through the Shared Work program (see BACKGROUND) for claims filed in a week in which the state's average unemployment rate is 6.5% or more based on the most recent three months of DOL-published data. For more drastic spikes in the unemployment rate, it also authorizes the DOL commissioner to allow a non-charge for such employees for claims filed in a week in which the state's average unemployment rate is 8% or more in the most recent month of DOL-published data.

MAXIMUM FUND BALANCE RATE

In addition to its individual experience rate, each employer is also charged a flat fund balance rate that is set each year by the DOL commissioner. This rate is, generally, calculated to ensure that the unemployment trust fund maintains a statutorily determined amount of funding in it. Under current law, the maximum fund balance rate is 1.4%. The bill reduces the maximum rate to 1% beginning with the 2024 calendar year, except as described below.

The bill requires the DOL commissioner to set the maximum fund balance rate at no greater than 0.5% during a recession unless doing so would jeopardize the state's access to interest-free federal advances, including those that are subject to certain funding goals established under federal law (see BACKGROUND). Under the bill, this requirement applies during a calendar year that begins during an economic recession declared by the National Bureau of Economic Research on or before November 15 of the prior calendar year.

SEVERANCE AND VACATION PAY

Current law generally prohibits claimants from receiving benefits during any week for which they received severance pay but makes an exception if, as a condition for receiving the severance pay, a claimant was required to forfeit a right or claim against an employer. The bill eliminates this exception starting on January 1, 2024.

Beginning on that same date, the bill also prohibits claimants from receiving benefits during any week for which they received vacation pay related to an identifiable week or weeks (1) designated as a vacation period under an arrangement between the individual (or his or her representative) and the employer or (2) that is the customary vacation period in the employer's industry. Under the bill, this provision does not apply to payments of accrued vacation pay that the claimant receives upon separation from employment.

INELIGIBILITY FOR BENEFITS DUE TO ABSENCES

By law, employees are ineligible for unemployment benefits if they were terminated after three separate instances of being absent from work without either good cause or notifying the employer. Under current law, an "instance" of absence can be either one day or two consecutive days (thus, an employee who is absent for two consecutive days counts as one absence). Beginning January 1, 2024, the bill instead requires each day of being absent without good cause or notice to be counted as an instance of absence.

BACKGROUND

Shared Work Program

The Shared Work Program is a voluntary program that allows employers to reduce their employees' work hours in lieu of layoffs. The affected employees receive a proportionally reduced unemployment benefit, which still gives them a greater total income than if they had been laid off with a full unemployment benefit. By remaining employees, they also maintain their fringe benefits (e.g., health insurance).

Federal UI Funding Goals

Under federal regulations, state unemployment systems may access certain interest-free federal loans if (1) the state's unemployment trust fund maintained an average high-cost multiple (AHCM) of at least 1.0 over the previous five consecutive years and (2) the state did not recently reduce its unemployment tax rate beyond certain thresholds (20 C.F.R. § 606.32). In general, an AHCM of 1.0 indicates that a trust fund holds enough funds to cover one year of benefits in a recession that is the average magnitude of the last three recessions.

Related Bills

HB 5377 (File 254), passed by the House and the Senate, disregards an employer's benefit charges and taxable wages between July 1, 2019, and June 30, 2021, when calculating the employer's unemployment tax experience rate for taxable years starting on or after January 1, 2022.

sHB 6595 (File 463), reported favorably by the Labor and Public Employees Committee, contains provisions (§§ 26-27) that disregard an employer's benefit charges and taxable wages between July 1, 2019, and June 30, 2021, when calculating the employer's unemployment tax experience rate for taxable years starting on or after January 1, 2022.

SB 711 (File 183), reported favorably by the Commerce Committee, creates a "non-charge" against an employer's experience rate for the unemployment benefits paid to former employees because of COVID-19.

SB 1002 (File 464), reported favorably by the Labor and Public Employees Committee, contains provisions (§§ 26-27) that disregard an employer's benefit charges and taxable wages between July 1, 2019, and June 30, 2021, when calculating the employer's unemployment tax experience rate for taxable years starting on or after January 1, 2022.

COMMITTEE ACTION

Finance, Revenue and Bonding Committee

Joint Favorable Substitute
Yea 48 Nay 0 (04/22/2021)