
Unemployment Insurance Financing Reform

Draft Legislation

Section 1. Subsection (a) of section 518 of the labor law is amended to read as follows:

(a) "Wages" means all remuneration paid, except that such term does not include remuneration paid to an employee by an employer after eight thousand five hundred dollars have been paid to such employee by such employer with respect to employment during any calendar year beginning on or before the first day of January, two thousand thirteen, except that such term does not include remuneration paid to an employee by an employer with respect to employment during any calendar year beginning with the first day of

that exceeds

January 2014 \$10,300
January 2015 \$10,500
January 2016 \$10,700
January 2017 \$10,900
January 2018 \$11,100
January 2019 \$11,400
January 2020 \$11,600
January 2021 \$11,800
January 2022 \$12,000
January 2023 \$12,300
January 2024 \$12,500
January 2025 \$12,800
~~January 2026 \$13,000~~

~~and each year thereafter on the first day of January that exceeds sixteen percent of the state's average annual wage as determined by the commissioner on an annual basis pursuant to section five hundred twenty-nine of this article; provided, however, that in calculating such maximum amount of remuneration, the amount arrived at by multiplying the state's average annual wage times sixteen percent shall be rounded up to the nearest hundred dollars. In no event shall the state's annual average wage be reduced from the amount determined in the previous year.~~ The term "employment" includes for the purposes of this subdivision services constituting employment under any unemployment compensation law of another state or the United States.

Section 2. The labor law is amended by adding a new section 517-a to read as follows:

§ 517-a. Calendar quarter. “Calendar quarter” means any thirteen week period beginning on the first day of January, April, July, or October of any year.

Section 3. The labor law is amended by adding a new section 517-b to read as follows:

§ 517-b. Payroll. “Payroll” means all wages paid by an employer during any calendar quarter.

Section 4. The labor law is amended by adding a new section 517-c to read as follows:

§ 517-c. Annual Payroll. “Annual payroll” means that part of an employer's payroll for the four consecutive calendar quarters ending on the computation date.

Section 5. The labor law is amended by adding a new section 517-d to read as follows:

§ 517-d. Computation date. “Computation date” means December thirty-first of the year immediately preceding the calendar year for which the contribution rates are effective.

Section 6. The labor law is amended by adding a new section 517-e to read as follows:

§ 517-e. Qualifying period. “Qualifying period” means the three-year period of 12 consecutive calendar quarters ending on the computation date; for an employer who has not been subject to this chapter during each of the 12 calendar quarters ending with the computation date, such employer shall be subject to the applicable rate for new employers under paragraph (f) of section five-hundred-eighty-one; an employer is subject to this chapter beginning with the start of the first quarter in which the employer pays wages under this chapter, and ending with the end of the calendar quarter in which either the employer files closing contribution and wage reports under regulations adopted by the department, or the account is closed by the independent action of the commissioner.

Section 7. The labor law is amended by adding a new section 529-a to read as follows:

§ 529-a. Average Decline Quotient. 1. “Average decline quotient” means that the department shall put the employer's quarterly payrolls in chronological order beginning with the first calendar quarter in the qualifying period and ending with the last calendar quarter in the qualifying period. If an employer's payroll in a calendar quarter is less than the payroll in the preceding quarter in the qualifying period, the quarterly decline quotient shall be computed to at least nine decimal places by dividing the amount of the decline by the amount of the payroll in the preceding calendar quarter.

2. For the purpose of computing quarterly decline quotients, the department may, by regulation, prescribe the manner in which remuneration paid in the form of annual bonuses or other lump-sum payments for service performed over a period of more than three months are apportioned among the calendar quarters of the calendar year in which the service was performed;

3. The department shall determine the sum of each eligible employer's decline quotients and shall weight the sum by adding to it 1.000000000 for each quarter in the employer's qualifying period in which the employer has no payroll, which quarter immediately follows a quarter in which the employer has no payroll. Each eligible employer's average decline quotient shall be computed to the ninth decimal place by dividing the sum of the quarterly decline quotients for the employer, weighted when required by this section, by the number of quarters in the employer's qualifying period less one.

Section 8. The labor law is amended by adding a new section 529-b to read as follows:

§ 529-b. Reserve rate. "Reserve rate" means the result obtained by dividing the total amount available for benefits in the fund on the computation date by the total annual payroll of employers required to pay contributions under the provisions of section five hundred seventy of this article. In calculating the reserve rate, the total amount available for benefits in the fund on the computation date shall be proportionally adjusted to reflect any increases in the benefit under this article.

Section 9. Subdivision 1 of section 570 of the labor law is amended to read as follows:

Rate. Each employer liable under this article shall pay contributions on all wages paid by him at the rate of five and four-tenths per centum or, if applicable to the employer, at the rate provided by the provisions of ~~sections five hundred seventy-seven and~~ section five hundred eighty-one. However, if contributions so established exceed five and four-tenths per centum of wages paid by him which are subject to the federal unemployment tax act, they shall be reduced by that part of such excess, if any, which is caused by the provisions of paragraph (b) of subdivision one of section five hundred eighteen.

Section 10. Subdivision 2 of section 577 of the labor law is REPEALED.

Section 11. Section 581 of the labor law is replaced in its entirety and amended to read as follows:

(a) The department shall determine each eligible employer's annual payroll. The department shall then put all eligible employers in the order of their average quarterly decline quotients beginning

with the smallest average decline quotient and shall determine, with respect to each employer, the cumulative annual payroll during the four consecutive quarters ending with the computation date of the employer together with all employers who precede the employer on the list.

(b) The department shall segregate the employers into groups in accordance with cumulative annual payroll. The limits of the groups are those set out in column B of the table in paragraph (c) of this section. Each of these groups shall be identified by the rate class number in column A which is opposite the figures in column B which represent the percentage limits of each group. An employer shall be assigned the experience factor in column C which is opposite the rate class in which the greater part of the employer's annual payroll falls. If one-half of the employer's annual payrolls falls in one class, and one-half in another, the employer shall be assigned to the lower numbered rate class. An employer may not be assigned to a higher numbered rate class than is assigned to another employer with the same average quarterly decline quotient.

(c) The rate of contributions for each employer is a percentage of the average benefit cost rate multiplied by the employer's experience factor set out in column C of the table in this subsection opposite the employer's applicable rate class set out in column A plus the fund solvency adjustment surcharge required under paragraph (e) of this section, provided that the rate of contributions for an employer may not be less than ninety-five hundredths per centum or more than five and four-tenths per centum. The rate of contributions for an employer in rate class twenty-one, as defined by section five hundred eighty-one-e of this article may not be less than five and four-tenths per centum. The rate of contributions for an employer must be rounded to the nearest one-hundredth of one per centum.

	<u>Cumulative annual payroll</u>		
<u>Column A</u>	<u>Column B</u>		<u>Column C</u>
<u>Rate class</u>	<u>at least</u>	<u>but not less than</u>	<u>Experience factor</u>
<u>1</u>	<u>0</u>	<u>5</u>	<u>0.40</u>
<u>2</u>	<u>5</u>	<u>10</u>	<u>0.45</u>
<u>3</u>	<u>10</u>	<u>15</u>	<u>0.50</u>
<u>4</u>	<u>15</u>	<u>20</u>	<u>0.55</u>
<u>5</u>	<u>20</u>	<u>25</u>	<u>0.60</u>
<u>6</u>	<u>25</u>	<u>30</u>	<u>0.65</u>
<u>7</u>	<u>30</u>	<u>35</u>	<u>0.70</u>
<u>8</u>	<u>35</u>	<u>40</u>	<u>0.80</u>
<u>9</u>	<u>40</u>	<u>45</u>	<u>0.90</u>
<u>10</u>	<u>45</u>	<u>50</u>	<u>1.00</u>
<u>11</u>	<u>50</u>	<u>55</u>	<u>1.00</u>
<u>12</u>	<u>55</u>	<u>60</u>	<u>1.10</u>

<u>13</u>	<u>60</u>	<u>65</u>	<u>1.20</u>
<u>14</u>	<u>65</u>	<u>70</u>	<u>1.30</u>
<u>15</u>	<u>70</u>	<u>75</u>	<u>1.35</u>
<u>16</u>	<u>75</u>	<u>80</u>	<u>1.40</u>
<u>17</u>	<u>80</u>	<u>85</u>	<u>1.45</u>
<u>18</u>	<u>85</u>	<u>90</u>	<u>1.50</u>
<u>19</u>	<u>90</u>	<u>95</u>	<u>1.55</u>
<u>20</u>	<u>95</u>	<u>100</u>	<u>1.60</u>
<u>21</u>	<u>100</u>		<u>1.65</u>

(d) The department shall determine the average benefit cost rate as follows:

(1) the department shall determine the amount of benefits paid to insured workers during the last three computation years, which amount shall be proportionally adjusted to reflect any increases in the benefit under this article;

(2) the department shall divide the amount determined in (2) of this subsection by the total wages paid by all employers required to pay contributions under this chapter during the first three of the last four computation years;

(e) An employer shall pay a fund solvency adjustment surcharge if the reserve rate is less than one percent. The surcharge is a percentage equal to the difference between one percent and the reserve rate, rounded to the nearest one-hundredth of one per centum. An employer shall receive a fund solvency adjustment credit if the reserve rate is greater than one and two-tenths per centum. The credit is a percentage equal to the difference between one and two-tenths per centum and the reserve rate rounded to the nearest one-hundredth of one per centum. The solvency surcharge may not be greater than one per centum, and the solvency credit may not be greater than four-tenths per centum.

(f) The rate for any employer who has not been liable for contributions during at least the five completed calendar quarters ending on the computation date, or because they have not paid any remuneration in the payroll year preceding the computation date, shall be ninety-five hundredths per centum.

Section 12. The labor law is amended by adding a new section 581-e to read as follows:

§ 581-e. Rate of contribution for delinquent employer accounts

(a) Except as provided in (c) of this section, an employer is not eligible for a rate determination under section five hundred eighty-one of this article if, with respect to quarters before July 1 of the preceding calendar year,

(1) the employer is delinquent \$1000 or more in paying contributions, penalties, or interest due under section five hundred seventy of this article; or

(2) the employer fails to file records to the department as defined by sections five hundred seventy-one and five hundred seventy-five-a of this article.

(b) An employer that is ineligible for a rate determination under (a) of this section shall pay contributions at the highest rate under section five hundred eighty-one of this article.

(c) An employer that is delinquent under (a)(1) of this section is eligible for a rate determination if the employer is current with payment under a deferred payment contract approved by the director. The director shall assign the highest rate under five hundred eighty-one of this article if the employer defaults on the deferred payment contract.

Section 13. Section 581-B of the labor law is amended to read as follows:

Contributions to the re-employment service fund. Each eligible employer that is liable for contributions under this article shall each calendar quarter make an additional contribution to the re-employment service fund in an amount equal to ~~seventy-five~~ twelve and one-half one-thousandths of a percent (~~0.075~~ 0.0125%) of its quarterly taxable payroll. In any particular calendar year when contributions paid into the re-employment service fund by all eligible employers equals thirty-five million dollars, any further contributions for the remainder of such year shall be credited to the general account pursuant to section five hundred seventy-seven of this title.

Section 14. This act shall take effect immediately pursuant to relevant approval as established by section thirty-three hundred four of the federal unemployment tax act.