

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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|---|---|
| 1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected | 2. Date June 23, 2020 |
| 3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter DWD 102 - Contribution Rates | |
| 4. Subject Contribution rates for 2021 | |
| 5. Fund Sources Affected <input type="checkbox"/> GPR <input checked="" type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S | 6. Chapter 20, Stats. Appropriations Affected None. |
| 7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input checked="" type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input checked="" type="checkbox"/> Could Absorb Within Agency's Budget | |
| 8. The Rule Will Impact the Following (Check All That Apply) <input checked="" type="checkbox"/> State's Economy <input type="checkbox"/> Specific Businesses/Sectors <input type="checkbox"/> Local Government Units <input type="checkbox"/> Public Utility Rate Payers <input checked="" type="checkbox"/> Small Businesses (if checked, complete Attachment A) | |
| 9. Estimate of Implementation and Compliance to Businesses, Local Governmental Units and Individuals, per s. 227.137(3)(b)(1). \$none expected | |
| 10. Would Implementation and Compliance Costs Businesses, Local Governmental Units and Individuals Be \$10 Million or more Over Any 2-year Period, per s. 227.137(3)(b)(2)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No | |
| 11. Policy Problem Addressed by the Rule Currently, an employer's contribution rate on the employer's payroll for a given calendar year is based on the reserve percentage of the employer's account as of the applicable computation date, which is June 30 of each year. Ultimately, however, the employer's reserve fund balance takes into account all charges and credits on a rolling basis so that the employer's unemployment experience determines the contribution rate. The new policy to be included in this rule will ensure that employers' contribution rates are calculated as of June 30, 2020 and meeting the policy goals of 2019 Wisconsin Act 185. Contribution rates for 2022 will be calculated after all recharging is complete. The policy alternative is to do nothing, which would either negatively impact most employers subject to contribution financing because their contribution rates will be higher for 2021 than they should be, or delay payments to claimants of unemployment compensations for federal programs under the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act. For most employers subject to contribution financing, this would result in higher contribution rates for 2021, which would not be in accordance with the legislative intent of 2019 Wisconsin Act 185. If no action was taken and the charging went forward, DWD would be required to halt programming changes that get payments to claimants in the federal programs (e.g, Pandemic Unemployment Assistance (PUA), Pandemic Emergency Unemployment Compensation (PEUC), and Extended Benefits (EB)) and reassign and train staff currently processing those claims to assist with the manual recharging efforts in an attempt to meet the June 30, 2020 deadline for calculating 2021 tax rates. This alternative is unreasonable and unacceptable given that there is a way to protect claimants who need these payments and protect employers from unnecessarily high contribution rates. | |
| 12. Summary of the Businesses, Business Sectors, Associations Representing Business, Local Governmental Units, and Individuals that may be Affected by the Proposed Rule that were Contacted for Comments. | |

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Employers subject to the contribution financing provisions of Wisconsin unemployment insurance law may be impacted by the proposed rule. The Department held a hearing on the scope statement but no comments were submitted.

13. Identify the Local Governmental Units that Participated in the Development of this EIA.

None.

14. Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule may affect small businesses, as defined in s. 227.114 (1), Stats., if the small business is subject to contribution financing. Those businesses may receive a benefit under this rule if their employees filed claims for unemployment insurance benefits during the period of March 15, 2020 through June 30, 2020 because charges associated with those claims will not be included in the employers' contribution rate calculations for 2021.

The effect on the State's economy as a whole is that employers subject to contribution financing may have lower tax rates for 2021, which may make funds that would be used to pay contributions available for other uses in the economy.

15. Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

The benefits of implementing this rule are that employers subject to contribution financing will have contribution rates for 2021 that will more accurately reflect the policy goals of 2019 Wisconsin Act 185, resulting in lower contribution rates.

The alternative to implementing the rule is to do nothing, which would result in higher contribution rates for 2021 for most employers subject to contribution financing.

16. Long Range Implications of Implementing the Rule

The long range implications of this rule are that the State's economy may be improved by permitting employers subject to contribution financing to retain and spend their funds other than on greater contributions.

17. Compare With Approaches Being Used by Federal Government

Under the federal Families First Coronavirus Response Act, Public Law 116-127, specifically Division D, the Emergency Unemployment Insurance Stabilization and Access Act of 2020 (EUISAA), a state may receive a share of \$500 million of federal funding for administering the state's unemployment insurance program if the "State has demonstrated steps it has taken or will take to ... non-charge[e] employers directly impacted by COVID-19 due to an illness in the workplace or direction from a public health official to isolate or quarantine workers." 42 USC 1103 (h) (3) (B). Wisconsin's share of the \$500 million is about \$9.457 million.

18. Compare With Approaches Being Used by Neighboring States (Illinois, Iowa, Michigan and Minnesota)

Illinois does not charge employers for unemployment benefits "for a week of unemployment that begins on or after March 15, 2020, and before December 31, 2020, and is directly or indirectly attributable to COVID-19..." 820 ILCS 405/1502.4(A).

By Executive Order 2020-76, Michigan charges benefits to the unemployment insurance non-chargeable account, unless the employer was determined to have misclassified workers.

Iowa is currently not charging unemployment benefits related to COVID-19 to employer accounts.

By Emergency Executive Order 20-05, Minnesota will "not use unemployment benefits paid as a result of the COVID-19 pandemic in computing the future unemployment tax rate of a taxpaying employer."

19. Contact Name

Janell Knutson

20. Contact Phone Number

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ATTACHMENT A

1. Summary of Rule's Economic and Fiscal Impact on Small Businesses (Separately for each Small Business Sector, Include Implementation and Compliance Costs Expected to be Incurred)

The proposed rule may affect small businesses, as defined in s. 227.114 (1), Stats., if the small businesses are subject to contribution financing. Under this rule, most small businesses subject to contribution financing will have contribution rates for 2021 that more accurately reflect the policy goals of 2019 Wisconsin Act 185. Contribution rates will be calculated for 2021 by disregarding the benefit charges and adjustments from March 15, 2020 through June 30, 2020.

2. Summary of the data sources used to measure the Rule's impact on Small Businesses

Under 2019 Wisconsin Act 185, s. 50, which created s. 108.07 (5) (bm), Stats., the Department of Workforce Development is directed to charge unemployment benefits for initial claims that are related to the public health emergency declared by Executive Order 72, to the balancing account of the Trust Fund for contribution employers. This treatment of claims charging applies to weeks of benefits payable from the week of March 15, 2020 through December 26, 2020.

The Department's antiquated computer systems are ill-equipped to handle the changes in charges from the employers' accounts to the balancing account. Each weekly claim to be charged to the balancing account under new section 108.07 (5) (bm), Stats., requires Department personnel to manually change the benefit charges from the employer's account to the balancing account of the Trust Fund after any federal funds have been appropriately applied. The Department estimates that this manual process will take approximately 15 minutes for each weekly claim. Given the high volume of claims being filed during the pandemic, the Department expects that the thousands of hours of manual work to complete the charging changes will not be completed by June 30, 2020 — and likely will not be completed by the end of 2020.

Under s. 108.18 (4), Stats., "an employer's contribution rate on the employer's payroll for a given calendar year shall be based on the reserve percentage of the employer's account as of the applicable computation date," which is June 30 of each year, as specified in s. 108.02 (8), Stats. Section 108.02 (22), Stats., requires the Department to determine the status of an employer's account when setting the reserve percentage for contribution purposes as of the computation date.

Because the Department will not be able to complete the manual charging changes required by 2019 Wisconsin Act 185 by June 30, 2020, most employers' contribution rates for 2021 will be based on benefit charges that should have been charged to the balancing account instead of the employers' accounts. This would result, for most employers subject to contribution financing, in contribution rates for 2021 that are higher than they should be.

Higher contribution rates for employers could impede Wisconsin's economic recovery from the pandemic.

3. Did the agency consider the following methods to reduce the impact of the Rule on Small Businesses?

- Less Stringent Compliance or Reporting Requirements
- Less Stringent Schedules or Deadlines for Compliance or Reporting
- Consolidation or Simplification of Reporting Requirements
- Establishment of performance standards in lieu of Design or Operational Standards
- Exemption of Small Businesses from some or all requirements
- Other, describe:

None.

4. Describe the methods incorporated into the Rule that will reduce its impact on Small Businesses

The rule is an emergency rule, so it is only effective for a limited time.

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5. Describe the Rule's Enforcement Provisions

The Department of Workforce Development administers the unemployment insurance program by, among other things, determining contribution rates for employers.

6. Did the Agency prepare a Cost Benefit Analysis (if Yes, attach to form)

Yes No
