

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

1. Type of Estimate and Analysis <input checked="" type="checkbox"/> Original <input type="checkbox"/> Updated <input type="checkbox"/> Corrected	2. Date November 20, 2020
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter DWD 123 - Benefit Reports Filed by Employers	
4. Subject Benefit charges for initial claims related to the public health emergency declared by Executive Order 72.	
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 Wis. Stat. § 20.445(1)(gd)
7. Fiscal Effect of Implementing the Rule <input type="checkbox"/> No Fiscal Effect <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Increase Costs <input type="checkbox"/> Decrease Costs <input checked="" type="checkbox"/> Indeterminate <input type="checkbox"/> Decrease Existing Revenues <input 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). \$minimal; none for some businesses	
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, unemployment benefits are charged to employer accounts unless a statutory exception applies. 2019 Act 185 directs the Department to charge the benefits for initial claims related to the public health emergency declared on March 12, 2020, by Executive Order 72 to the balancing account or the interest and penalty appropriation. 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 for 2022 are correctly calculated as of June 30, 2021, while meeting the policy goals of 2019 Act 185. The new policy in this rule will also assist the Department to meet the requirements of 2019 Act 185 more timely for reimbursable employers. The rule will also provide instructions for employers who seek relief of charges due to the public health emergency. The policy alternative is to do nothing, which could negatively impact many employers subject to contribution financing because their contribution rates might be higher for 2022 than they should be. For most employers subject to contribution financing, this would result in higher contribution rates for 2022, which would not be in accordance with the legislative intent of 2019 Act 185. Doing nothing is unacceptable because this rule can 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. Employers subject to the provisions of the Wisconsin unemployment insurance law may be impacted by the proposed rule if they are required by the rule to submit a form to request relief of charging. The Department held a hearing on the scope statement but no comments were submitted.	

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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 the Wisconsin unemployment insurance law. 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 December 26, 2020 because charges associated with those claims will not be charged to the employer if the initial claim for those benefits relates to the public health emergency declared by Executive Order 72.

The effect on the State's economy as a whole is that employers subject to contribution financing may have lower tax rates for 2022 and future years, which may make funds that would be used to pay contribution available for other uses in the economy. Employers subject to reimbursement financing that receive charging relief under this rule will be able to use the funds that they would have used to pay reimbursements 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 2022 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 2022 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 to retain and spend their funds other than on contributions and reimbursements.

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 U.S.C. § 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

608-266-1639

This document can be made available in alternate formats to individuals with disabilities upon request.

ADMINISTRATIVE RULES Fiscal Estimate & Economic Impact Analysis

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)

This emergency rule is expected to have a positive economic impact on employers subject to contribution financing, which may include small businesses, if those employers are required to submit information to the Department to request charging relief, do so by the deadline set by this emergency rule, and receive charging relief as a result.

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

Under 2019 Wisconsin Act 185, s. 50, 100% of the unemployment insurance benefits for initial claims related to the public health emergency declared on March 12, 2020 by Executive Order 72 will be charged to the balancing account of the Trust Fund for employers subject to contribution financing. 50% of the unemployment insurance benefits for initial claims related to the public health emergency declared on March 12, 2020 by Executive Order 72 will be charged to the interest and penalty appropriation for employers subject to reimbursement financing; the other 50% will be paid by the federal government. The charging relief for employers under state law is effective for state unemployment insurance benefits paid for the period of March 15, 2020 through December 26, 2020. However, charges for the first week of unemployment and for benefits paid under work share plans will be charged to the federal government during that period.

Section 108.04 (2) (d), which was created by Act 185, requires claimants and employers to indicate whether a claim for regular benefits is related to the public health emergency declared on March 12, 2020, by executive order 72. This is necessary for the Department to properly apply section 108.07 (5) (bm), Stats., which provides for the charging of certain benefits to the balancing account or interest and penalty appropriation. Further, under section 108.07 (5) (bm) 2. b., Stats., employers will not receive relief from benefit charges unless they timely and adequately provide the information necessary for the Department to determine how to charge the claim. Because the claim charging provisions of section 108.07 (5) (bm), Stats., will involve manual processes, the Department needs enough time to complete the work before the June 30, 2021 computation date, which will determine contribution rates for 2022.

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.

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 and determining the amount of reimbursements payable by employers subject to reimbursement financing.

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

- Yes No
-