HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 2382 **PRINTERS NO**. 4081 **PRIME SPONSOR**: James

COST / (SAVINGS)

FUND	FY 2016/17	FY 2017/18
Unemployment Compensation Trust Fund	**See "Fiscal Impact"**	**See "Fiscal Impact"**

SUMMARY: Amends the Unemployment Compensation (UC) Law providing for seasonal worker benefit eligibility, additional solvency measures, and to increase the periods of time allotted for parties to appeal the determination of UC Service Center and UC referees. The legislation would take effect as follows:

- Changes to benefit eligibility and benefit amounts apply to benefit years beginning after December 31, 2016.
- Changes to provisions affecting employer contributions and the change to Section 206 applies to employer contributions on wages paid on or after January 1, 2017.
- Changes to the times allotted to file UC appeals take effect in 60 days.
- Changes to increase consequences for bad actors in the UC system take effect in 180 days (except for sections 206 and 309.2).
- The remainder takes effect immediately.

ANALYSIS: The legislation amends the UC Law to provide for additional benefit eligibility for seasonal workers; authorizes a 3-month amnesty program; increases the reserve ratio factor for certain employers; reduces benefits for all claimants beginning January 1, 2017; caps the growth of the maximum weekly benefit rate; creates additional solvency triggers for freezes in the maximum weekly benefit rate and for an alternative method of calculating highest quarterly wages; increases fines, penalty weeks, interest rates for a variety of bad acts with regard to the UC system; and increases the periods of time allotted for parties to appeal the determination of a UC Service Center and the decision of a UC referee, from 15 days to 30 days.

Reserve Ratio Factor: The legislation adds two additional tiers to apply higher reserve ratio factor rates for employers with the very worst records of laying off employees.

The two new tiers would carry increased rates for the employers that fall into them, and they would apply to contributions beginning January 1, 2017.

Benefit Eligibility: The legislation will reduce the amount of base year wages that must be earned outside the highest quarter from 49.5% to 37% to maintain UC benefit eligibility. In other words, an employee may earn 63% of his or her base year wages in their high quarter, just as long as 37% is earned in one or more quarters.

Benefit Reduction: For benefit years beginning after December 31, 2016, all benefits will be reduced by 2%. A new benefit table, reflecting this reduction, is included within the legislation.

Maximum Weekly Benefit Rate Growth: The legislation reduces the amounts that the Maximum Weekly Benefit Rate is allowed to grow. The proposal would reduce the maximum weekly UC benefit from $573 to $561 through 2019. From 2020-2023, the growth in the benefit rate would be capped at 2%. For 2024 and after, the maximum growth in the benefit rate would be capped at 4%.

New Solvency Triggers: The legislation includes triggers for additional freezes in the maximum weekly benefit rate if certain solvency benchmarks are not met.

- For calendar years 2020 through 2023, the maximum benefit rate will not increase if the solvency trigger percentage is less than 115% as of July 1, 2019.
- For calendar year 2024, the maximum benefit rate will not increase if the solvency trigger percentage is less than 220% as of July 1 of the preceding year.
- If the 2024 freeze occurs, the maximum benefit will remain frozen until the year after the trigger percentage is at least 250%. After it is unfrozen, it will be allowed to grow up to 4% annually.

The legislation also includes a trigger for a benefit reduction for seasonal workers if UC solvency is not at least 250% by July 1, 2025.

- A claimant's benefit amount is based on his "highest quarterly wages" in the base year.
- If triggered, the highest quarterly wage for the claimant will be the average of:
  - The highest quarterly wage, and
  - 130% of the second highest quarterly wage (except when this number is higher than the wages for the highest quarter).
- The year after the trigger percentage is at least 250%, the highest quarterly wage will again be the simple measure of the claimant's highest base year quarter.

UC Appeal Timeline Extensions: The legislation also provides for a uniform timeline in the UC appeal process. A party will have 30 days to appeal: 1) a determination of a UC Service Center to a UC referee; 2) a referee's decision to the UC Board of Review; or 3) a UC Board of Review's decision to Commonwealth Court.

Amnesty Program: The legislation provides for a UC amnesty program. The Department of Labor and Industry (L&I) will have 360 days to commence a three-month amnesty period. Employer contributions subject to amnesty include unpaid: 1) employer contributions; 2) reimbursements; 3) interest on late contributions that had been paid; and 4) penalties for late-filed reports

As the result of amnesty, employers receive a reduction equal to 50% of the interest and penalties due. Claimant liabilities subject to amnesty include: 1) fault overpayments; 2) penalty amounts assessed for misstatements; 3) non-fault overpayments; and 4) unpaid interest on overpayments that had been repaid.

As the result of amnesty, claimants receive a reduction equal to:

- 50% of the interest due and 50% of penalty weeks assessed on fault overpayments

- 50% of the outstanding balance on non-fault overpayments
- 50% of the unpaid interest due

Additional Consequences for UC Bad Actors: The legislation includes additional provisions related to fraud and other bad acts in the UC system. The legislation:

- Increases the penalty for department employees and officers who release private employer records from $20-$200 to $100-$300.
- Increases the penalty for employers who do not make required reports:
    - From 10% of total required contribution to 15%.
    - The penalty range is increased from $25-$250 to $125 to $450.
- Increases the minimum interest rate on unpaid employer contributions to 1% per month.
- Increase the time to take legal action against an employer for unpaid UC contributions from 4 years to 6 years.
- Requires the department to utilize any reasonable means to prevent the payment of UC benefits to incarcerated individuals.
- Increases the penalties on employers who charge employees to finance the employer's UC tax liability from $100-$1,000 to $500-$1,500.
- Increases the penalties on claimants who knowingly make false statements or representations to obtain or increase UC benefits from $100-$1,000 to $500-$1,500.
- Increases the minimum number of penalty weeks for fraud from 2 weeks to 5 weeks.
- Increases the statute of limitations on penalty weeks from 4 years to 10 years.
- Provides that incarcerated individuals who commit willful fraud will receive a minimum of 10 penalty weeks, in addition to any penalty assessed.
- Increases the minimum penalty for employers who commit willful fraud from $100-$500.
- Increases penalties for UC claimants who commit violations of the act for which a penalty is not specified from $100-$1,000 to $500 to $1,500.

FISCAL IMPACT: According to L&I, this legislation would save the UC Trust Fund almost $1.2 billion over a 10-year period. The legislation would allow the UC Trust Fund to be "fully funded" or over 250% solvent by 2024 rather than 2026 under current law. The legislation would actually cost the UC Trust Fund approximately $84 million and $89 million respectively in calendar years 2017 and 2018. Please see the table below that outlines the costs/savings over the next 10 years:

(in millions)	**Cost/(Savings)**										
Provision	**2017**	**2018**	**2019**	**2020**	**2021**	**2022**	**2023**	**2024**	**2025**	**2026**	**Totals**
Amends the reserve ratio table	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	(16)	**(155)**
Reduce outside high quarter earnings from 49.5% to 37%	148	148	148	148	148	148	148	148	148	148	**1,480**
Reduce benefits by 2% across the board	(44)	(44)	(44)	(44)	(44)	(44)	(44)	(44)	(44)	(44)	**(440)**
Cap max benefit growth at 2% in calendar years 2020-2023	0	0	0	(75)	(157)	(243)	(333)	0	0	0	**(808)**
Cap max benefit growth at 4% after calendar year 2023	0	0	0	0	0	0	0	(408)	(416)	(429)	**(1,253)**
Creates one-time amnesty program	(5)	0	0	0	0	0	0	0	0	0	**(5)**
Totals	**84**	**89**	**89**	**14**	**(69)**	**(155)**	**(245)**	**(320)**	**(328)**	**(341)**	**(1,181)**

PREPARED BY: Tim Rodrigo
House Appropriations Committee (R)

DATE: October 24, 2016

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.