

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 June 4, 2021
3. Administrative Rule Chapter, Title and Number (and Clearinghouse Number if applicable) Chapter DWD 102 - Contribution Rates	
4. Subject Contribution rates for 2022	
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 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. To correctly set contribution rates, recharging work must consider applicability of federal programs that reduce the benefit charges to employers in addition to the recharging relief provided by 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4. Federal law changes provide federal funding (in whole or in part) that affects recharging in the following programs: waiver of waiting week; work share; and regular unemployment for reimbursable employers. The new policy to be included in this rule will ensure that employers' contribution rates for 2022 are calculated based on reserve fund balances as of June 30, 2021 without taking charges related to the public health emergency into account so that the policy goals of 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4 are met. This rule will only affect calculation of contribution rates for 2022. The policy alternative is to do nothing, which would negatively impact most employers subject to contribution financing because their contribution rates will 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 Wisconsin Act 185 and 2021 Wisconsin Act 4.	
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 contribution financing provisions of Wisconsin unemployment insurance law may be impacted by the proposed rule. The Department held a preliminary public hearing and comment period on the scope statement but	

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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 March 13, 2021 because charges associated with those claims will not be included in the employers' contribution rate calculations for 2022.

The effect on the State's economy as a whole is that employers subject to contribution financing may have lower tax rates for 2022, 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 2022 that will more accurately reflect the policy goals of 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4, resulting in lower contribution rates.

The alternative to implementing the rule is to do nothing, which would result in contribution rates for 2022 that would be incorrectly high for most employers subject to contribution financing.

16. Long Range Implications of Implementing the Rule

There are no long range implications of implementing this emergency rule.

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 did not charge unemployment benefits related to COVID-19 to employer accounts until June 12, 2021.

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

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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 2022 that more accurately reflect the policy goals of 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4. Contribution rates will be calculated for 2022 by disregarding the benefit charges and adjustments from March 15, 2020 through March 13, 2021.

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

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

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, 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.

Under 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4, the unemployment insurance benefits 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. The charging relief for employers under state law is effective for state unemployment insurance benefits paid for the period of March 15, 2020 through March 13, 2021. However, some charges for the first week of unemployment and for benefits paid under work share plans will be charged to the federal government.

Because the Department will not be able to complete the charging changes required by 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4 by June 30, 2021, most employers' contribution rates for 2022 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 2022 that are higher than they should be.

This rule, in effect, directs the Department to assume that all benefit charges and benefit adjustments for the period of March 15, 2020 through March 13, 2021 relate to the public health emergency declared by Executive Order 72. This will have the effect of aligning employer contribution rates for 2022 with the policy goals of 2019 Wisconsin Act 185 and 2021 Wisconsin Act 4.

Incorrectly high 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

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

5. Describe the Rule's Enforcement Provisions

The Department 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
