D21-13
Construction Employer Initial Contribution Rates

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Proposed by: DWD
Drafted by: Bureau of Legal Affairs

ANALYSIS OF PROPOSED UI LAW CHANGE
Construction Employer Initial Contribution Rates

1. Description of Proposed Change

New businesses with employees must register as employers with the Department. The Department then assigns a tax rate to the employer. If the new employer is a non-construction employer, the employer’s contribution rate is 2.5% for the first three years.\(^1\) But, if the new employer is a construction employer, the employer’s initial contribution rate is “the average rate for construction industry employers as determined by the department on each computation date, rounded up to the next highest rate” for the first three calendar years.\(^2\) All employers are also assigned a solvency rate, which, when combined with the contribution rate, provides for a total tax rate.\(^3\)

Construction employers are given an initial contribution rate that is the average of all construction employers because, historically, construction employers have had higher contribution rates due to seasonal layoffs. This has resulted in construction employers having initial contribution rates higher than 2.5%. The higher initial contribution rates resulted in employers building up their reserve fund balances.

In 2021, the total tax rates for new employers are as follows:

<table>
<thead>
<tr>
<th>Payroll</th>
<th>Non-construction</th>
<th>Construction</th>
</tr>
</thead>
<tbody>
<tr>
<td>Payroll&lt;$500,000</td>
<td>3.05%</td>
<td>2.90%</td>
</tr>
<tr>
<td>Payroll&gt;$500,000</td>
<td>3.25%</td>
<td>3.10%</td>
</tr>
</tbody>
</table>

\(^1\) Wis. Stat. § 108.18(2)(a).
\(^2\) Wis. Stat. § 108.18(2)(c).
\(^3\) Wis. Stat. § 108.18(9).
So, for 2021, the initial rate for new construction employers is lower than non-construction employers. The Department proposes amending the initial tax rate for construction employers to be the greater of the initial rate for non-construction employers or the average rate for construction industry employers as determined by the department on each computation date, rounded up to the next highest rate.

2. Proposed Statutory Change

Section 108.18 (2)(c) of the statutes is amended to read:

An employer engaged in the construction of roads, bridges, highways, sewers, water mains, utilities, public buildings, factories, housing, or similar construction projects shall pay contributions for each of the first 3 calendar years at either the average rate for construction industry employers as determined by the department on each computation date, rounded up to the next highest rate, or the rate specified in par. (a), whichever is greater. This rate may in no case be more than the maximum rate specified in the schedule in effect for the year of the computation under sub. (4).

3. Effects of Proposed Change

a. Policy: This proposal will ensure that new construction employers do not have a lower initial contribution rate than other new employers.

b. Administrative: The Department will need to train staff on the changes in this proposal.

c. Fiscal: A fiscal estimate is not yet available.
4. State and Federal Issues

There are no known federal conformity issues with this proposal. The Department recommends that any changes to the unemployment insurance law be sent to the U.S. Department of Labor for conformity review.

5. Proposed Effective/Applicability Date

This proposal would be effective January 1, 2022.
FISCAL ANALYSIS OF PROPOSED LAW CHANGE

Summary of Proposal:
This proposal would amend the Unemployment Insurance (UI) initial tax rate for construction employers to be the greater of the initial rate for non-construction employers or the average rate for construction industry employers as determined by the department on each computation date, rounded up to the next highest rate.

UI Trust Fund Impact:
This proposal is expected to have no measurable effect on the UI Trust Fund in most circumstances.

IT and Administrative Impact:
This proposal would have an approximate $6,408 one-time IT and $2,115 administrative impact. There would be no ongoing costs.

Trust Fund Methodology:
This is only expected to occur in unique circumstances, so it is not expected to have an annual impact on the UI Trust Fund. When applicable, it is expected to have a small but positive impact on the UI Trust Fund through higher UI tax revenue.