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**SUBSTITUTE HOUSE BILL 3305**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Commerce & Labor (originally sponsored by Representatives Dickerson, Conway, Green, Appleton, and Sells)

READ FIRST TIME 02/11/08.

1            AN ACT Relating to implementing the family leave insurance program,  
2 but only with respect to designating agencies to administer and enforce  
3 the program, adopting government efficiencies to improve program  
4 administration and reduce program costs, tracking and mitigating any  
5 impacts on the unemployment compensation system, addressing the manner  
6 in which leave is coordinated, and implementing other task force  
7 recommendations; amending RCW 49.86.010, 49.86.020, 49.86.030,  
8 49.86.050, 49.86.060, 49.86.070, 49.86.090, 49.86.110, 49.86.120,  
9 49.86.160, 49.86.170, 49.86.190, 49.86.210, 49.86.080, and 50.29.021;  
10 adding a new section to chapter 49.86 RCW; creating new sections; and  
11 providing an effective date.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

13            **Sec. 1.** RCW 49.86.010 and 2007 c 357 s 3 are each amended to read  
14 as follows:

15            The definitions in this section apply throughout this chapter  
16 unless the context clearly requires otherwise.

17            (1) "Application year" means the twelve-month period beginning on  
18 the ~~((first day of the calendar week in which an individual files an~~  
19 ~~application for family leave insurance benefits and, thereafter, the~~

1 ~~twelve-month period beginning with the first day of the calendar week~~  
2 ~~in which the individual next files an application for family leave~~  
3 ~~insurance benefits after the expiration of the individual's last~~  
4 ~~preceding application year)) date of the birth of a child of the~~  
5 ~~individual or the placement of a child with the individual for~~  
6 ~~adoption.~~

7 (2) "Calendar quarter" means the same as in RCW 50.04.050.

8 (3) "Child" means a biological or an adopted child.

9 (4) "Commissioner" means the commissioner of the department.

10 ~~(5) "Department" means the ((state agency to be directed to~~  
11 ~~administer the family leave insurance program)) employment security~~  
12 ~~department.~~

13 ~~((5) "Director" means the director of the department.))~~

14 (6) "Employer" means: (a) The same as in RCW 50.04.080; and (b)  
15 the state and its political subdivisions.

16 (7) "Employment" has the meaning provided in RCW 50.04.100.

17 (8) "Family leave" means leave: (a) Because of the birth of a  
18 child of the employee and in order to care for the child; or (b)  
19 because of the placement of a child with the employee for adoption.

20 (9) "Family leave insurance benefits" means the benefits payable  
21 under RCW 49.86.050 and 49.86.060.

22 (10) "Federal family and medical leave act" means the federal  
23 family and medical leave act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107  
24 Stat. 6).

25 (11) "Qualifying year" means the first four of the last five  
26 completed calendar quarters or, if eligibility is not established, the  
27 last four completed calendar quarters immediately preceding the first  
28 day of the individual's application year.

29 (12) "Regularly working" means the average number of hours per  
30 workweek that an individual worked in the two quarters of the  
31 individual's qualifying year in which total wages were highest.

32 **Sec. 2.** RCW 49.86.020 and 2007 c 357 s 4 are each amended to read  
33 as follows:

34 (1) The department shall establish and administer a family leave  
35 insurance program and pay family leave insurance benefits as specified  
36 in this chapter.

1 (2) The department shall establish procedures and forms for filing  
2 claims for benefits under this chapter. The department shall notify  
3 the employer within five business days of a claim being filed under RCW  
4 49.86.030.

5 (3) The department shall use information sharing and integration  
6 technology to facilitate the disclosure of relevant information or  
7 records by the (~~employment—security~~) department, so long as an  
8 individual consents to the disclosure as required under RCW  
9 49.86.030(4).

10 (4) Information contained in the files and records pertaining to an  
11 individual under this chapter are confidential and not open to public  
12 inspection, other than to public employees in the performance of their  
13 official duties. However, the individual or an authorized  
14 representative of an individual may review the records or receive  
15 specific information from the records on the presentation of the signed  
16 authorization of the individual. An employer or the employer's duly  
17 authorized representative may review the records of an individual  
18 employed by the employer in connection with a pending claim. At the  
19 department's discretion, other persons may review records when such  
20 persons are rendering assistance to the department at any stage of the  
21 proceedings on any matter pertaining to the administration of this  
22 chapter.

23 (5) The department shall develop and implement an outreach program  
24 to ensure that individuals who may be eligible to receive family leave  
25 insurance benefits under this chapter are made aware of these benefits.  
26 Outreach information shall explain, in an easy to understand format,  
27 eligibility requirements, the claims process, weekly benefit amounts,  
28 maximum benefits payable, notice requirements, reinstatement and  
29 nondiscrimination rights, confidentiality, and coordination of leave  
30 under this chapter and other laws, collective bargaining agreements,  
31 and employer policies. Outreach information shall be available in  
32 English and other primary languages as defined in RCW 74.04.025.

33 **Sec. 3.** RCW 49.86.030 and 2007 c 357 s 5 are each amended to read  
34 as follows:

35 Beginning October 1, 2009, family leave insurance benefits are  
36 payable to an individual during a period in which the individual is

1 unable to perform his or her regular or customary work because he or  
2 she is on family leave if the individual:

3 (1) Files a claim for benefits (~~((in each week in which the~~  
4 ~~individual is on family leave))~~ in the six-week period beginning on the  
5 first day of the calendar week in which the individual is on family  
6 leave, and as required by rules adopted by the (~~(director)~~)  
7 commissioner;

8 (2) Has been employed for at least six hundred eighty hours in  
9 employment during the individual's qualifying year;

10 (3) Establishes an application year. An application year may not  
11 be established if the qualifying year includes hours worked before  
12 establishment of a previous application year;

13 (4) Consents to the disclosure of information or records deemed  
14 private and confidential under chapter 50.13 RCW. Initial disclosure  
15 of this information and these records by the (~~(employment security)~~)  
16 department to the department is solely for purposes related to the  
17 administration of this chapter. Further disclosure of this information  
18 or these records is subject to RCW 49.86.020(3);

19 (5) Discloses whether or not he or she owes child support  
20 obligations as defined in RCW 50.40.050; and

21 (6) (~~(Documents that he or she has provided)~~) Provides the employer  
22 from whom family leave is to be taken with written notice of the  
23 individual's intention to take family leave in the same manner as an  
24 employee is required to provide notice in RCW 49.78.250, and in the  
25 individual's claim for benefits, attests that written notice has been  
26 provided.

27 **Sec. 4.** RCW 49.86.050 and 2007 c 357 s 7 are each amended to read  
28 as follows:

29 (1) The maximum number of weeks during which family leave insurance  
30 benefits are payable in an application year is five weeks. However,  
31 benefits are not payable during a waiting period consisting of the  
32 first seven calendar days of family leave taken in an application year,  
33 whether the first seven calendar days of family leave are employer paid  
34 or unpaid.

35 (2)(a) The first payment of benefits must be made to an individual  
36 within two weeks after the claim is filed or the family leave began,

1 whichever is later, and subsequent payments must be made  
2 (~~semimonthly~~) biweekly thereafter.

3 (b) The payment of benefits under this chapter shall not be  
4 considered a binding determination of the obligations of the department  
5 under this chapter. The acceptance of compensation by the individual  
6 shall likewise not be considered a binding determination of his or her  
7 rights under this chapter. Whenever any payment of benefits under this  
8 chapter has been made and timely appeal therefrom has been made where  
9 the final decision is that the payment was improper, the individual  
10 shall repay it and recoupment may be made from any future payment due  
11 to the individual on any claim under this chapter. The (~~director~~)  
12 commissioner may exercise his or her discretion to waive, in whole or  
13 in part, the amount of any such payments where the recovery would be  
14 against equity and good conscience.

15 (c) If an individual dies before he or she receives a payment of  
16 benefits, the payment shall be made by the department and distributed  
17 consistent with the terms of the decedent's will or, if the decedent  
18 dies intestate, consistent with the terms of RCW 11.04.015.

19 **Sec. 5.** RCW 49.86.060 and 2007 c 357 s 8 are each amended to read  
20 as follows:

21 The amount of family leave insurance benefits shall be determined  
22 as follows:

23 (1) The weekly benefit shall be two hundred fifty dollars per week  
24 for an individual who at the time of beginning family leave was  
25 regularly working thirty-five hours or more per week.

26 (2) If an individual who at the time of beginning family leave was  
27 regularly working thirty-five hours or more per week is on family leave  
28 for less than thirty-five hours but at least eight hours in a week, the  
29 individual's weekly benefit shall be .025 times the maximum weekly  
30 benefit times the number of hours of family leave taken in the week.  
31 Benefits are not payable for less than eight hours of family leave  
32 taken in a week.

33 (3) For an individual who at the time of beginning family leave was  
34 regularly working less than thirty-five hours per week, the department  
35 shall calculate a prorated schedule for a weekly benefit amount and a  
36 minimum number of hours of family leave that must be taken in a week

1 for benefits to be payable, with the prorated schedule based on the  
2 amounts and the calculations specified under subsections (1) and (2) of  
3 this section.

4 (4) If an individual discloses that he or she owes child support  
5 obligations under RCW 49.86.030 and the department determines that the  
6 individual is eligible for benefits, the department shall notify the  
7 applicable state or local child support enforcement agency and deduct  
8 and withhold an amount from benefits in a manner consistent with RCW  
9 50.40.050.

10 ~~((5) If the internal revenue service determines that family leave  
11 insurance benefits under this chapter are subject to federal income tax  
12 and an individual elects to have federal income tax deducted and  
13 withheld from benefits, the department shall deduct and withhold the  
14 amount specified in the federal internal revenue code in a manner  
15 consistent with RCW 49.86.070.))~~

16 **Sec. 6.** RCW 49.86.070 and 2007 c 357 s 9 are each amended to read  
17 as follows:

18 ~~((1))~~ If the internal revenue service determines that family  
19 leave insurance benefits under this chapter are subject to federal  
20 income tax, the department must advise an individual filing a ~~((new))~~  
21 claim for family leave insurance benefits, at the time of filing such  
22 claim, that ~~((+~~

23 ~~(a))~~ the internal revenue service has determined that benefits are  
24 subject to federal income tax ~~((+~~

25 ~~(b))~~ , and that requirements exist pertaining to estimated tax  
26 payments ~~((+~~

27 ~~(c)~~ ~~The individual may elect to have federal income tax deducted~~  
28 ~~and withheld from the individual's payment of benefits at the amount~~  
29 ~~specified in the federal internal revenue code; and~~

30 ~~(d)~~ ~~The individual is permitted to change a previously elected~~  
31 ~~withholding status.~~

32 ~~(2)~~ ~~Amounts deducted and withheld from benefits must remain in the~~  
33 ~~family leave insurance account until transferred to the federal taxing~~  
34 ~~authority as a payment of income tax.~~

35 ~~(3)~~ ~~The director shall follow all procedures specified by the~~  
36 ~~federal internal revenue service pertaining to the deducting and~~  
37 ~~withholding of income tax)).~~

1       **Sec. 7.** RCW 49.86.090 and 2007 c 357 s 11 are each amended to read  
2 as follows:

3       (1) During a period in which an individual receives family leave  
4 insurance benefits or earns waiting period credits under this chapter,  
5 the individual is entitled to family leave and, at the established  
6 ending date of leave, to be restored to a position of employment with  
7 the employer from whom leave was taken.

8       (2) The individual entitled to leave under this section shall be  
9 restored to a position of employment in the same manner as an employee  
10 entitled to leave under chapter 49.78 RCW is restored to a position of  
11 employment, as specified in RCW 49.78.280.

12       (3) This section applies only to an individual if:

13       (a) The employer from whom the individual takes family leave  
14 employs more than twenty-five employees for each working day during  
15 each of twenty or more calendar workweeks in the current or preceding  
16 calendar year within seventy-five miles of the employee's worksite; and

17       (b) The individual has been employed for at least twelve months by  
18 that employer, and for at least one thousand two hundred fifty hours of  
19 service with that employer during the previous twelve-month period.

20       (4) This section does not apply if the employment from which the  
21 individual takes family leave is with a staffing company and the  
22 individual is assigned on a temporary basis to perform work at or  
23 services for another organization to support or supplement the other  
24 organization's workforces, or to provide assistance in special work  
25 situations such as, but not limited to, employee absences, skill  
26 shortages, seasonal workloads, or to perform special assignments or  
27 projects, all under the direction and supervision of the organization  
28 to which the individual is assigned.

29       (5) This section does not apply if an employee was hired for a  
30 specific term or only to perform work on a discrete project, the  
31 employment term or project is over, and the employer would not  
32 otherwise have continued to employ the employee.

33       (6) This section shall be enforced by the department of labor and  
34 industries as provided in chapter 49.78 RCW.

35       **Sec. 8.** RCW 49.86.110 and 2007 c 357 s 13 are each amended to read  
36 as follows:

37       (1) An employer of individuals not covered by this chapter or a

1 self-employed person, including a sole proprietor, partner, or joint  
2 venturer, may elect coverage under this chapter for all individuals in  
3 its employ for an initial period of not less than three years or a  
4 subsequent period of not less than one year immediately following  
5 another period of coverage. The employer or self-employed person must  
6 file a notice of election in writing with the ~~((director))~~  
7 commissioner, as required by the department. The election becomes  
8 effective on the date of filing the notice.

9 (2) An employer or self-employed person who has elected coverage  
10 may withdraw from coverage within thirty days after the end of the  
11 three-year period of coverage, or at such other times as the  
12 ~~((director))~~ commissioner may prescribe by rule, by filing written  
13 notice with the ~~((director))~~ commissioner, such withdrawal to take  
14 effect not sooner than thirty days after filing the notice. Within  
15 five days of filing written notice of the withdrawal with the  
16 ~~((director))~~ commissioner, an employer must provide written notice of  
17 the withdrawal to all individuals in the employer's employ.

18 **Sec. 9.** RCW 49.86.120 and 2007 c 357 s 14 are each amended to read  
19 as follows:

20 (1) A person aggrieved by a decision of the department under this  
21 chapter must file a notice of appeal with the ~~((director))~~  
22 commissioner, by mail or personally, within thirty days after the date  
23 on which a copy of the department's decision was communicated to the  
24 person. Upon receipt of the notice of appeal, the ~~((director))~~  
25 commissioner shall request the assignment of an administrative law  
26 judge in accordance with chapter 34.05 RCW to conduct a hearing and  
27 issue a proposed decision and order. The hearing shall be conducted in  
28 accordance with chapter 34.05 RCW.

29 (2) The administrative law judge's proposed decision and order  
30 shall be final and not subject to further appeal unless, within thirty  
31 days after the decision is communicated to the interested parties, a  
32 party petitions for review by the ~~((director))~~ commissioner. If the  
33 ~~((director's))~~ commissioner's review is timely requested, the  
34 ~~((director))~~ commissioner may order additional evidence by the  
35 administrative law judge. On the basis of the evidence before the  
36 administrative law judge and such additional evidence as the  
37 ~~((director))~~ commissioner may order to be taken, the ~~((director))~~



1 commissioner shall render a decision affirming, modifying, or setting  
2 aside the administrative law judge's decision. The ~~((director's))~~  
3 commissioner's decision becomes final and not subject to further appeal  
4 unless, within thirty days after the decision is communicated to the  
5 interested parties, a party files a petition for judicial review as  
6 provided in chapter 34.05 RCW. The ~~((director))~~ commissioner is a  
7 party to any judicial action involving the ~~((director's))~~  
8 commissioner's decision and shall be represented in the action by the  
9 attorney general.

10 (3) If, upon ~~((administrative or))~~ judicial review, the final  
11 decision of the department is reversed or modified, ~~((the~~  
12 ~~administrative law judge or))~~ the court in its discretion may award  
13 reasonable attorneys' fees and costs to the prevailing party.  
14 Attorneys' fees and costs owed by the department, if any, are payable  
15 from the family leave insurance account.

16 **Sec. 10.** RCW 49.86.160 and 2007 c 357 s 18 are each amended to  
17 read as follows:

18 The ~~((director))~~ commissioner may adopt rules as necessary to  
19 implement this chapter. The director of the department of labor and  
20 industries may adopt rules as necessary to implement RCW 49.86.090. In  
21 adopting rules, the commissioner and the director shall maintain  
22 consistency with the rules adopted to implement the federal family and  
23 medical leave act, and chapter 49.78 RCW, to the extent such rules are  
24 not in conflict with this chapter.

25 **Sec. 11.** RCW 49.86.170 and 2007 c 357 s 19 are each amended to  
26 read as follows:

27 The family leave insurance account is created in the custody of the  
28 state treasurer. Expenditures from the account may be used only for  
29 the purposes of the family leave insurance program. Only the  
30 ~~((director of the department of labor and industries))~~ commissioner or  
31 the ~~((director's))~~ commissioner's designee may authorize expenditures  
32 from the account. The account is subject to the allotment procedures  
33 under chapter 43.88 RCW. An appropriation is required for  
34 administrative expenses, but not for benefit payments.

1       **Sec. 12.** RCW 49.86.190 and 2007 c 357 s 22 are each amended to  
2 read as follows:

3       (~~If necessary~~) To ensure that money is available in the family  
4 leave insurance account for the initial administration of the family  
5 leave insurance program, the director of labor and industries may, from  
6 time to time before July 1, (~~2009~~) 2008, lend funds from the  
7 supplemental pension fund to the family leave insurance account. The  
8 department of labor and industries shall enter into an interagency  
9 agreement with the employment security department to implement this  
10 loan. These loaned funds may be expended solely by the employment  
11 security department for the initial administration of the program under  
12 this chapter. (~~The director of labor and industries~~) As specified in  
13 the interagency agreement, the commissioner shall repay the  
14 supplemental pension fund, plus (~~its proportionate share of earnings~~  
15 ~~from investment of moneys in the supplemental pension fund during the~~  
16 ~~loan period~~) interest, from the family leave insurance account  
17 (~~within two years of the date of the loan~~). This section expires  
18 October 1, 2011.

19       **Sec. 13.** RCW 49.86.210 and 2007 c 357 s 26 are each amended to  
20 read as follows:

21       Beginning September 1, 2010, the department shall report to the  
22 legislature by September 1st of each year on projected and actual  
23 program participation, premium rates, fund balances, benefits paid,  
24 information on program participants, costs of providing benefits, and  
25 outreach efforts.

26       **Sec. 14.** RCW 49.86.080 and 2007 c 357 s 10 are each amended to  
27 read as follows:

28       (1) If family leave insurance benefits are paid erroneously or as  
29 a result of willful misrepresentation, or if a claim for family leave  
30 benefits is rejected after benefits are paid, RCW 51.32.240 shall  
31 apply, except that appeals are governed by RCW 49.86.120, penalties are  
32 paid into the family leave insurance account, and the department shall  
33 seek repayment of benefits from the recipient. The department shall  
34 issue an overpayment assessment setting forth the reasons for and the  
35 amount of the overpayment.

1       (2) Whenever such an overpayment assessment becomes conclusive and  
2 final, the department may file with the superior court clerk of any  
3 county within the state a warrant in the amount of the overpayment  
4 assessment plus a filing fee under RCW 36.18.012(10). However, the  
5 department must first give at least twenty days notice by certified  
6 mail return receipt requested, to the individual's last known address  
7 of the intended action.

8       (a) The clerk of the county where the warrant is filed shall  
9 immediately designate a superior court cause number for the warrant.  
10 The clerk shall cause to be entered in the judgment docket under the  
11 superior court cause number assigned to the warrant the name of the  
12 person or persons mentioned in the warrant, the amount of the  
13 overpayment assessment, and the date when the warrant was filed.

14       (b) The amount of the warrant as docketed shall become a lien upon  
15 the title to, and any interest in, all real and personal property of  
16 the person or persons against whom the warrant is issued, the same as  
17 a judgment in a civil case duly docketed in the office of the clerk.  
18 A warrant so docketed shall be sufficient to support the issuance of  
19 writs of execution and writs of garnishment in favor of the state in  
20 the manner provided by law for a civil judgment.

21       (c) A copy of the warrant shall be mailed to the person or persons  
22 mentioned in the warrant by certified mail to the person's last known  
23 address within ten days of its filing with the clerk.

24       NEW SECTION. Sec. 15. A new section is added to chapter 49.86 RCW  
25 to read as follows:

26       The commissioner shall appoint a state advisory committee. The  
27 committee shall aid the commissioner in formulating policies related to  
28 the administration of this chapter and of assuring consistency with  
29 program intent and impartiality and freedom from political influence in  
30 the solution of issues that may arise. The committee shall serve  
31 without compensation. Advisory committee members shall be reimbursed  
32 for travel expenses incurred in accordance with RCW 43.03.050 and  
33 43.03.060.

34       NEW SECTION. Sec. 16. The employment security department shall  
35 conduct a study of the impacts, if any, of the family leave insurance

1 program on the unemployment compensation system, and options for  
2 mitigating impacts. The department shall report on its study to the  
3 appropriate committees of the legislature by December 1, 2011.

4 **Sec. 17.** RCW 50.29.021 and 2007 c 146 s 2 are each amended to read  
5 as follows:

6 (1) This section applies to benefits charged to the experience  
7 rating accounts of employers for claims that have an effective date on  
8 or after January 4, 2004.

9 (2)(a) An experience rating account shall be established and  
10 maintained for each employer, except employers as described in RCW  
11 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
12 payments in lieu of contributions, taxable local government employers  
13 as described in RCW 50.44.035, and those employers who are required to  
14 make payments in lieu of contributions, based on existing records of  
15 the employment security department.

16 (b) Benefits paid to an eligible individual shall be charged to the  
17 experience rating accounts of each of such individual's employers  
18 during the individual's base year in the same ratio that the wages paid  
19 by each employer to the individual during the base year bear to the  
20 wages paid by all employers to that individual during that base year,  
21 except as otherwise provided in this section.

22 (c) When the eligible individual's separating employer is a covered  
23 contribution paying base year employer, benefits paid to the eligible  
24 individual shall be charged to the experience rating account of only  
25 the individual's separating employer if the individual qualifies for  
26 benefits under:

27 (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed  
28 after having worked and earned wages in the bona fide work; or

29 (ii) RCW 50.20.050(2)(b) (v) through (x).

30 (3) The legislature finds that certain benefit payments, in whole  
31 or in part, should not be charged to the experience rating accounts of  
32 employers except those employers described in RCW 50.44.010, 50.44.030,  
33 and 50.50.030 who have properly elected to make payments in lieu of  
34 contributions, taxable local government employers described in RCW  
35 50.44.035, and those employers who are required to make payments in  
36 lieu of contributions, as follows:

1 (a) Benefits paid to any individual later determined to be  
2 ineligible shall not be charged to the experience rating account of any  
3 contribution paying employer. However, when a benefit claim becomes  
4 invalid due to an amendment or adjustment of a report where the  
5 employer failed to report or inaccurately reported hours worked or  
6 remuneration paid, or both, all benefits paid will be charged to the  
7 experience rating account of the contribution paying employer or  
8 employers that originally filed the incomplete or inaccurate report or  
9 reports. An employer who reimburses the trust fund for benefits paid  
10 to workers and who fails to report or inaccurately reported hours  
11 worked or remuneration paid, or both, shall reimburse the trust fund  
12 for all benefits paid that are based on the originally filed incomplete  
13 or inaccurate report or reports.

14 (b) Benefits paid to an individual filing under the provisions of  
15 chapter 50.06 RCW shall not be charged to the experience rating account  
16 of any contribution paying employer only if:

17 (i) The individual files under RCW 50.06.020(1) after receiving  
18 crime victims' compensation for a disability resulting from a nonwork-  
19 related occurrence; or

20 (ii) The individual files under RCW 50.06.020(2).

21 (c) Benefits paid which represent the state's share of benefits  
22 payable as extended benefits defined under RCW 50.22.010(6) shall not  
23 be charged to the experience rating account of any contribution paying  
24 employer.

25 (d) In the case of individuals who requalify for benefits under RCW  
26 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
27 the disqualifying separation shall not be charged to the experience  
28 rating account of the contribution paying employer from whom that  
29 separation took place.

30 (e) Individuals who qualify for benefits under RCW  
31 50.20.050(2)(b)(iv), as applicable, shall not have their benefits  
32 charged to the experience rating account of any contribution paying  
33 employer.

34 (f) With respect to claims with an effective date on or after the  
35 first Sunday following April 22, 2005, benefits paid that exceed the  
36 benefits that would have been paid if the weekly benefit amount for the  
37 claim had been determined as one percent of the total wages paid in the

1 individual's base year shall not be charged to the experience rating  
2 account of any contribution paying employer.

3 (4)(a) A contribution paying base year employer, not otherwise  
4 eligible for relief of charges for benefits under this section, may  
5 receive such relief if the benefit charges result from payment to an  
6 individual who:

7 (i) Last left the employ of such employer voluntarily for reasons  
8 not attributable to the employer;

9 (ii) Was discharged for misconduct or gross misconduct connected  
10 with his or her work not a result of inability to meet the minimum job  
11 requirements;

12 (iii) Is unemployed as a result of closure or severe curtailment of  
13 operation at the employer's plant, building, worksite, or other  
14 facility. This closure must be for reasons directly attributable to a  
15 catastrophic occurrence such as fire, flood, or other natural disaster;

16 (~~(iv)~~)

17 (iv) Continues to be employed on a regularly scheduled permanent  
18 part-time basis by a base year employer and who at some time during the  
19 base year was concurrently employed and subsequently separated from at  
20 least one other base year employer. Benefit charge relief ceases when  
21 the employment relationship between the employer requesting relief and  
22 the claimant is terminated. This subsection does not apply to shared  
23 work employers under chapter 50.06 RCW; or

24 (v) Worked for an employer for six weeks or less, and was laid off  
25 at the end of temporary employment when that individual temporarily  
26 replaced a permanent employee taking family leave as defined in chapter  
27 49.86 RCW, and the lay off is due to the return of that permanent  
28 employee. This subsection applies to claims with an effective date on  
29 or after October 4, 2009.

30 (b) The employer requesting relief of charges under this subsection  
31 must request relief in writing within thirty days following mailing to  
32 the last known address of the notification of the valid initial  
33 determination of such claim, stating the date and reason for the  
34 separation or the circumstances of continued employment. The  
35 commissioner, upon investigation of the request, shall determine  
36 whether relief should be granted.

1        NEW SECTION.    **Sec. 18.**    If any provision of this act or its  
2 application to any person or circumstance is held invalid, the  
3 remainder of the act or the application of the provision to other  
4 persons or circumstances is not affected.

5        NEW SECTION.    **Sec. 19.**    If any part of this act is found to be in  
6 conflict with federal requirements that are a prescribed condition to  
7 the allocation of federal funds to the state or the eligibility of  
8 employers in this state for federal unemployment tax credits, the  
9 conflicting part of this act is inoperative solely to the extent of the  
10 conflict, and the finding or determination does not affect the  
11 operation of the remainder of this act. Rules adopted under this act  
12 must meet federal requirements that are a necessary condition to the  
13 receipt of federal funds by the state or the granting of federal  
14 unemployment tax credits to employers in this state.

15        NEW SECTION.    **Sec. 20.**    Sections 1 through 10, 13, and 14 of this  
16 act take effect July 1, 2008.

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