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HOUSE BILL 1349

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State of Washington

54th Legislature

1995 Regular Session

By Representatives Lisk, Chandler and Veloria; by request of Joint Task Force on Unemployment Insurance

Read first time 01/23/95. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to noncharging of benefits to employers'  
2 unemployment insurance experience rating accounts; amending RCW  
3 50.16.094, 50.22.090, and 50.29.020; creating a new section; and  
4 declaring an emergency.

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

6 **Sec. 1.** RCW 50.16.094 and 1993 c 226 s 6 are each amended to read  
7 as follows:

8 An individual may be eligible for applicable employment security  
9 benefits while participating in work force training. Eligibility is at  
10 the discretion of the commissioner of employment security after  
11 submitting a commissioner-approved training waiver and developing a  
12 detailed individualized training plan.

13 ~~((Benefits paid under this section may not be charged to the  
14 experience rating accounts of individual employers.))~~

15 The commissioner shall adopt rules as necessary to implement this  
16 section.

17 **Sec. 2.** RCW 50.22.090 and 1993 c 316 s 10 are each amended to read  
18 as follows:

1 (1) An additional benefit period is established for counties  
2 identified under subsection (2) of this section beginning on the first  
3 Sunday after July 1, 1991, and for the forest products industry  
4 beginning with the third week after the first Sunday after July 1,  
5 1991. Benefits shall be paid as provided in subsection (3) of this  
6 section to exhaustees eligible under subsection (4) of this section.

7 (2) The additional benefit period applies to counties having a  
8 population of less than five hundred thousand beginning with the third  
9 week after a week in which the commissioner determines that a county  
10 meets two of the following three criteria, as determined by the  
11 department, for the most recent year in which such data is available:

12 (a) A lumber and wood products employment location quotient at or above  
13 the state average; (b) projected or actual direct lumber and wood  
14 products job losses of one hundred positions or more, except counties  
15 having a population greater than two hundred thousand but less than  
16 five hundred thousand must have direct lumber and wood products job  
17 losses of one thousand positions or more; or (c) an annual unemployment  
18 rate twenty percent or more above the state average. The additional  
19 benefit period for a county may end no sooner than fifty-two weeks  
20 after the additional benefit period begins.

21 (3) Additional benefits shall be paid as follows:

22 (a) No new claims for additional benefits shall be accepted for  
23 weeks beginning after July 1, 1995, but for claims established on or  
24 before July 1, 1995, weeks of unemployment occurring after July 1,  
25 1995, shall be compensated as provided in this section.

26 (b) The total additional benefit amount shall be one hundred four  
27 times the individual's weekly benefit amount, reduced by the total  
28 amount of regular benefits and extended benefits paid, or deemed paid,  
29 with respect to the benefit year. Additional benefits shall not be  
30 payable for weeks more than two years beyond the end of the benefit  
31 year of the regular claim for an individual whose benefit year ends on  
32 or after July 27, 1991, and shall not be payable for weeks ending on or  
33 after two years after March 26, 1992, for individuals who become  
34 eligible as a result of chapter 47, Laws of 1992.

35 (c) Notwithstanding the provisions of (b) of this subsection,  
36 individuals will be entitled to up to five additional weeks of benefits  
37 following the completion or termination of training.

38 (d) The weekly benefit amount shall be calculated as specified in  
39 RCW 50.22.040.

1 (e) Benefits paid under this section shall be paid under the same  
2 terms and conditions as regular benefits (~~and shall not be charged to~~  
3 ~~the experience rating account of individual employers~~). The  
4 additional benefit period shall be suspended with the start of an  
5 extended benefit period, or any totally federally funded benefit  
6 program, with eligibility criteria and benefits comparable to the  
7 program established by this section, and shall resume the first week  
8 following the end of the federal program.

9 (f) The amendments in chapter 316, Laws of 1993 affecting  
10 subsection (3) (b) and (c) of this section shall apply in the case of  
11 all individuals determined to be monetarily eligible under this section  
12 without regard to the date eligibility was determined.

13 (4) An additional benefit eligibility period is established for any  
14 exhaustee who:

15 (a)(i) At the time of last separation from employment, resided in  
16 or was employed in a county identified under subsection (2) of this  
17 section; or

18 (ii) During his or her base year, earned wages in at least six  
19 hundred eighty hours in the forest products industry, which shall be  
20 determined by the department but shall include the industries assigned  
21 the major group standard industrial classification codes "24" and "26"  
22 and the industries involved in the harvesting and management of logs,  
23 transportation of logs and wood products, processing of wood products,  
24 and the manufacturing and distribution of wood processing and logging  
25 equipment. The commissioner may adopt rules further interpreting the  
26 industries covered under this subsection. For the purposes of this  
27 subsection, "standard industrial classification code" means the code  
28 identified in RCW 50.29.025(6)(c); and

29 (b)(i) Has received notice of termination or layoff; and

30 (ii) Is unlikely to return to employment in his or her principal  
31 occupation or previous industry because of a diminishing demand within  
32 his or her labor market for his or her skills in the occupation or  
33 industry; and

34 (c)(i)(A) Is notified by the department of the requirements of this  
35 section and develops an individual training program that is submitted  
36 to the commissioner for approval not later than sixty days after the  
37 individual is notified of the requirements of this section, and enters  
38 the approved training program not later than ninety days after the date  
39 of the individual's termination or layoff, or ninety days after July 1,

1 1991, whichever is later, unless the department determines that the  
2 training is not available during the ninety-day period, in which case  
3 the individual shall enter training as soon as it is available; or

4 (B) Is unemployed as the result of a plant closure that occurs  
5 after November 1, 1992, in a county identified under subsection (2) of  
6 this section, did not comply with the requirements of (c)(i)(A) of this  
7 subsection due to good cause as demonstrated to the department, such as  
8 ambiguity over possible sale of the plant, develops a training program  
9 that is submitted to the commissioner for approval not later than sixty  
10 days from a date determined by the department to accommodate the good  
11 cause, and enters the approved training program not later than ninety  
12 days after the revised date established by the department, unless the  
13 department determines that the training is not available during the  
14 ninety-day period, in which case the individual shall enter training as  
15 soon as it is available; or

16 (ii) Is enrolled in training approved under this section on a full-  
17 time basis and maintains satisfactory progress in the training; and

18 (d) Does not receive a training allowance or stipend under the  
19 provisions of any federal or state law.

20 (5) For the purposes of this section:

21 (a) "Training program" means:

22 (i) A remedial education program determined to be necessary after  
23 counseling at the educational institution in which the individual  
24 enrolls pursuant to his or her approved training program; or

25 (ii) A vocational training program at an educational institution  
26 that:

27 (A) Is training for a labor demand occupation;

28 (B) Is likely to facilitate a substantial enhancement of the  
29 individual's marketable skills and earning power; and

30 (C) Does not include on-the-job training or other training under  
31 which the individual is paid by an employer for work performed by the  
32 individual during the time that the individual receives additional  
33 benefits under subsection (1) of this section.

34 (b) "Educational institution" means an institution of higher  
35 education as defined in RCW 28B.10.016 or an educational institution as  
36 defined in RCW 28C.04.410(3).

37 (c) "Training allowance or stipend" means discretionary use, cash-  
38 in-hand payments available to the individual to be used as the

1 individual sees fit, but does not mean direct or indirect compensation  
2 for training costs, such as tuition or books and supplies.

3 (6) The commissioner shall adopt rules as necessary to implement  
4 this section.

5 (7) For the purpose of this section, an individual who has a  
6 benefit year beginning after January 1, 1989, and ending before July  
7 27, 1991, shall be treated as if his or her benefit year ended on July  
8 27, 1991.

9 **Sec. 3.** RCW 50.29.020 and 1993 c 483 s 19 are each amended to read  
10 as follows:

11 (1) An experience rating account shall be established and  
12 maintained for each employer, except employers as described in RCW  
13 50.44.010 and 50.44.030 who have properly elected to make payments in  
14 lieu of contributions, taxable local government employers as described  
15 in RCW 50.44.035, and those employers who are required to make payments  
16 in lieu of contributions, based on existing records of the employment  
17 security department. Benefits paid to any eligible individuals shall  
18 be charged to the experience rating accounts of each of such  
19 individual's employers during the individual's base year in the same  
20 ratio that the wages paid by each employer to the individual during the  
21 base year bear to the wages paid by all employers to that individual  
22 during that base year, except as otherwise provided in this section.

23 (2) The legislature finds that certain benefit payments, in whole  
24 or in part, should not be charged to the experience rating accounts of  
25 employers except those employers described in RCW 50.44.010 and  
26 50.44.030 who have properly elected to make payments in lieu of  
27 contributions, taxable local government employers described in RCW  
28 50.44.035, and those employers who are required to make payments in  
29 lieu of contributions, as follows:

30 (a) Benefits paid to any individuals later determined to be  
31 ineligible shall not be charged to the experience rating account of any  
32 contribution paying employer.

33 (b) ~~((Benefits paid to an individual under the provisions of RCW  
34 50.12.050 shall not be charged to the account of any contribution  
35 paying employer if the wage credits earned in this state by the  
36 individual during his or her base year are less than the minimum amount  
37 necessary to qualify the individual for unemployment benefits.~~

1       ~~(e)~~) Benefits paid to an individual filing under the provisions of  
2 chapter 50.06 RCW shall not be charged to the experience rating account  
3 of any contribution paying employer only if:

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

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

8       ~~((d))~~ (c) Benefits paid which represent the state's share of  
9 benefits payable under chapter 50.22 RCW shall not be charged to the  
10 experience rating account of any contribution paying employer.

11       ~~((e))~~ (d) In the case of individuals who requalify for benefits  
12 under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned  
13 prior to the disqualifying separation shall not be charged to the  
14 experience rating account of the contribution paying employer from whom  
15 that separation took place.

16       ~~((f))~~ (e) In the case of individuals identified under RCW  
17 50.20.015, benefits paid with respect to a calendar quarter, which  
18 exceed the total amount of wages earned in the state of Washington in  
19 the higher of two corresponding calendar quarters included within the  
20 individual's determination period, as defined in RCW 50.20.015, shall  
21 not be charged to the experience rating account of any contribution  
22 paying employer.

23       ~~((g) Benefits paid to an individual who does not successfully~~  
24 ~~complete an approved on the job training program under RCW 50.12.240~~  
25 ~~may not be charged to the experience rating account of the~~  
26 ~~contribution paying employer who provided the approved on the job~~  
27 ~~training.))~~

28       (3)(a) Beginning July 1, 1985, a contribution-paying base year  
29 employer, not otherwise eligible for relief of charges for benefits  
30 under this section, may receive such relief if the benefit charges  
31 result from payment to an individual who:

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

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

36       (iii) Is unemployed as a result of closure or severe curtailment of  
37 operation at the employer's plant, building, work site, or other  
38 facility. This closure must be for reasons directly attributable to a

1 catastrophic occurrence such as fire, flood, or other natural disaster;  
2 or

3 (iv) Continues to be employed on a regularly scheduled permanent  
4 part-time basis by a base year employer and who at some time during the  
5 base year was concurrently employed and subsequently separated from at  
6 least one other base year employer. Benefit charge relief ceases when  
7 the employment relationship between the employer requesting relief and  
8 the claimant is terminated. This subsection does not apply to shared  
9 work employers under chapter 50.60 RCW.

10 (b) The employer requesting relief of charges under this subsection  
11 must request relief in writing within thirty days following mailing to  
12 the last known address of the notification of the valid initial  
13 determination of such claim, stating the date and reason for the  
14 separation or the circumstances of continued employment. The  
15 commissioner, upon investigation of the request, shall determine  
16 whether relief should be granted.

17 NEW SECTION. **Sec. 4.** This act applies only to benefit charges  
18 attributable to new claims effective after July 1, 1995.

19 NEW SECTION. **Sec. 5.** This act is necessary for the immediate  
20 preservation of the public peace, health, or safety, or support of the  
21 state government and its existing public institutions, and shall take  
22 effect immediately.

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