
ENGROSSED SUBSTITUTE SENATE BILL 6421

State of Washington

55th Legislature

1998 Regular Session

By Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Heavey and Winsley; by request of Employment Security Department)

Read first time 02/04/98.

1 AN ACT Relating to unemployment compensation for persons with
2 public employment contracts; amending RCW 50.04.320 and 50.04.165; and
3 creating new sections.

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

5 **Sec. 1.** RCW 50.04.320 and 1995 c 296 s 1 are each amended to read
6 as follows:

7 (1) For the purpose of payment of contributions, "wages" means the
8 remuneration paid by one employer during any calendar year to an
9 individual in its employment under this title or the unemployment
10 compensation law of any other state in the amount specified in RCW
11 50.24.010. If an employer (hereinafter referred to as a successor
12 employer) during any calendar year acquires substantially all the
13 operating assets of another employer (hereinafter referred to as a
14 predecessor employer) or assets used in a separate unit of a trade or
15 business of a predecessor employer, and immediately after the
16 acquisition employs in the individual's trade or business an individual
17 who immediately before the acquisition was employed in the trade or
18 business of the predecessor employer, then, for the purposes of
19 determining the amount of remuneration paid by the successor employer

1 to the individual during the calendar year which is subject to
2 contributions, any remuneration paid to the individual by the
3 predecessor employer during that calendar year and before the
4 acquisition shall be considered as having been paid by the successor
5 employer.

6 (2) For the purpose of payment of benefits, "wages" means the
7 remuneration paid by one or more employers to an individual for
8 employment under this title during his base year: PROVIDED, That at
9 the request of a claimant, wages may be calculated on the basis of
10 remuneration payable. The department shall notify each claimant that
11 wages are calculated on the basis of remuneration paid, but at the
12 claimant's request a redetermination may be performed and based on
13 remuneration payable.

14 (3) For the purpose of payment of benefits and payment of
15 contributions, the term "wages" includes tips which are received after
16 January 1, 1987, while performing services which constitute employment,
17 and which are reported to the employer for federal income tax purposes.

18 (4)(a) "Remuneration" means all compensation paid for personal
19 services including commissions and bonuses and the cash value of all
20 compensation paid in any medium other than cash. The reasonable cash
21 value of compensation paid in any medium other than cash and the
22 reasonable value of gratuities shall be estimated and determined in
23 accordance with rules prescribed by the commissioner. Remuneration
24 does not include payments to members of a reserve component of the
25 armed forces of the United States, including the organized militia of
26 the state of Washington, for the performance of duty for periods not
27 exceeding seventy-two hours at a time.

28 (b) Previously accrued compensation, other than severance pay or
29 payments received pursuant to plant closure agreements, when assigned
30 to a specific period of time by virtue of a collective bargaining
31 agreement, individual employment contract, customary trade practice, or
32 request of the individual compensated, shall be considered remuneration
33 for the period to which it is assigned. Assignment clearly occurs when
34 the compensation serves to make the individual eligible for all regular
35 fringe benefits for the period to which the compensation is assigned.

36 (c) Settlements or other proceeds received by an individual as a
37 result of a negotiated settlement for termination of an employment
38 contract (~~(with a public agency)~~) prior to its expiration date shall be
39 considered remuneration. The proceeds shall be deemed assigned in the

1 same intervals and in the same amount for each interval as compensation
2 was allocated under the contract.

3 (d) Except as provided in (c) of this subsection, the provisions of
4 this subsection (4) pertaining to the assignment of previously accrued
5 compensation shall not apply to individuals subject to RCW 50.44.050.

6 NEW SECTION. **Sec. 2.** It is the intent of the legislature to
7 provide taxation relief to those businesses or corporations that have
8 been required to provide unemployment insurance coverage to members of
9 their boards of directors.

10 **Sec. 3.** RCW 50.04.165 and 1993 c 290 s 2 are each amended to read
11 as follows:

12 Services performed by a person appointed as an officer of a
13 corporation under RCW 23B.08.400 or as a member of a board of directors
14 under RCW 23B.08.010, other than those covered by chapter 50.44 RCW,
15 shall not be considered services in employment. However, a corporation
16 may elect to cover not less than all of its corporate officers or board
17 of directors under RCW 50.24.160. If an employer does not elect to
18 cover its corporate officers under RCW 50.24.160, the employer must
19 notify its corporate officers in writing that they are ineligible for
20 unemployment benefits. If the employer fails to notify any corporate
21 officer, then that person shall not be considered to be a corporate
22 officer for the purposes of this section.

23 NEW SECTION. **Sec. 4.** If any provision of this act or its
24 application to any person or circumstance is held invalid, the
25 remainder of the act or the application of the provision to other
26 persons or circumstances is not affected.

27 NEW SECTION. **Sec. 5.** Section 3 of this act applies retroactively
28 to all administrative tax claims currently pending before the
29 employment security department for claims incurred after March 1, 1992,
30 regarding unemployment insurance coverage of members of boards of
31 directors.

32 NEW SECTION. **Sec. 6.** If any part of this act is found to be in
33 conflict with federal requirements that are a prescribed condition to
34 the allocation of federal funds to the state or the eligibility of

1 employers in this state for federal unemployment tax credits, the
2 conflicting part of this act is inoperative solely to the extent of the
3 conflict, and the finding or determination does not affect the
4 operation of the remainder of this act. Rules adopted under this act
5 must meet federal requirements that are a necessary condition to the
6 receipt of federal funds by the state or the granting of federal
7 unemployment tax credits to employers in this state.

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