
ENGROSSED SUBSTITUTE SENATE BILL 6007

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Prentice, Winsley, Gardner, Franklin,
Fairley, Kline and Costa; by request of Employment Security Department)

READ FIRST TIME 02/28/01.

1 AN ACT Relating to extending unemployment insurance coverage to
2 employees of Indian tribes; amending RCW 50.04.090; adding a new
3 section to chapter 50.04 RCW; adding a new chapter to Title 50 RCW;
4 creating new sections; and declaring an emergency.

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

6 **Sec. 1.** RCW 50.04.090 and 1983 1st ex.s. c 23 s 2 are each amended
7 to read as follows:

8 "Employing unit" means any individual or any type of organization,
9 including any partnership, association, trust, estate, joint stock
10 company, insurance company, or corporation, whether domestic or
11 foreign, or the receiver, trustee in bankruptcy, trustee or successor
12 thereof, or the legal representative of a deceased person, which has or
13 subsequent to January 1, 1937, had in its employ or in its "employment"
14 one or more individuals performing services within this state. The
15 state and its political subdivisions shall be deemed employing units as
16 to any transactions occurring on or after September 21, 1977 which
17 would render an employing unit liable for contributions, interest, or
18 penalties under RCW 50.24.130. "Employing unit" includes Indian tribes
19 as defined in section 3 of this act.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.04 RCW
2 to read as follows:

3 The term "employment" includes services performed in the employ of
4 an Indian tribe as provided in section 3 of this act.

5 NEW SECTION. **Sec. 3.** The term "employment" includes service
6 performed in the employ of an Indian tribe, as defined in section
7 3306(u) of the federal unemployment tax act, provided such service is
8 excluded from "employment" as defined in the federal unemployment tax
9 act solely by reason of section 3306(c)(7), the federal unemployment
10 tax act, and is not otherwise excluded from "employment" under this
11 title. For purposes of this section, the exclusions from employment in
12 RCW 50.44.040, except RCW 50.44.040(12) addressing nongovernmental
13 preschools, are applicable to services performed in the employ of an
14 Indian tribe.

15 NEW SECTION. **Sec. 4.** Benefits based on service in employment
16 defined in this chapter are payable in the same amount, on the same
17 terms, and subject to the same conditions as benefits payable on the
18 basis of other service under this title.

19 NEW SECTION. **Sec. 5.** (1) Indian tribes or tribal units, including
20 subdivisions, subsidiaries, or business enterprises wholly owned by
21 such Indian tribes, subject to this title shall pay contributions under
22 the same terms and conditions as all other subject employers, unless
23 they elect to pay into the unemployment compensation fund amounts equal
24 to the amount of benefits attributable to service in the employ of the
25 Indian tribe.

26 (2) Indian tribes electing to make payments in lieu of
27 contributions shall make such election in the same manner and under the
28 same conditions as provided in RCW 50.44.030 pertaining to other units
29 of government subject to this title. Indian tribes shall determine if
30 reimbursement for benefits paid are to be elected by the tribe as a
31 whole, by individual tribal units, or by combinations of tribal units.

32 (3) Indian tribes or tribal units shall be billed for the full
33 amount of benefits attributable to service in the employ of the Indian
34 tribe or tribal unit on the same schedule as other employing units that
35 have elected to make payments in lieu of contributions.

1 (4) At the discretion of the commissioner and on the same basis as
2 other employers with the same election option, any Indian tribe or
3 tribal unit that elects to become liable for payments in lieu of
4 contributions is required, within thirty days after the effective date
5 of its election, to: (a) Execute and file with the commissioner a
6 surety bond approved by the commissioner; or (b) deposit with the
7 commissioner money or securities in an amount determined by the
8 commissioner.

9 NEW SECTION. **Sec. 6.** (1)(a) The commissioner shall revoke the
10 option for an Indian tribe or tribal unit to make payments in lieu of
11 contributions as described in section 5 of this act if the Indian tribe
12 or tribal unit: (i) Did not make payments, including assessments of
13 interest and penalties, required under this chapter within ninety days
14 of receipt of statement; or (ii) entered into an approved agency
15 deferred payment contract, and was not in compliance with the contract
16 on the cutoff date, as authorized in chapter 50.29 RCW. The revocation
17 shall begin on January 1 of the first calendar year after the Indian
18 tribe or tribal unit meets these conditions, and shall continue until
19 the option is reinstated as described in (b) of this subsection.

20 (b) The commissioner shall reinstate the option if, as of the
21 cutoff date, an Indian tribe or tribal unit whose option was revoked as
22 described in (a) of this subsection: (i) Paid contributions owed in
23 the current calendar year when due; and (ii) made required payments,
24 including assessments of interest and penalties, for any preceding
25 calendar years. The reinstatement shall begin on January 1 of the
26 first calendar year after the Indian tribe or tribal unit satisfies
27 these conditions.

28 (2)(a) Services performed for an Indian tribe or tribal unit are
29 not services in "employment" for purposes of sections 2 and 3 of this
30 act if:

31 (i) The Indian tribe or tribal unit elected to make payments in
32 lieu of contributions, had the option revoked, and has not met the
33 conditions for reinstatement of the option; and

34 (ii) The Indian tribe or tribal unit either: (A) Did not make
35 required payments, including assessments of interest and penalties,
36 within one hundred eighty days of receipt of statement; or (B) entered
37 into an approved agency deferred payment contract, and was not in

1 compliance with the contract on the last day of the current calendar
2 quarter.

3 This revocation of coverage shall begin on the first day of the
4 first calendar quarter after the Indian tribe or tribal unit meets
5 these conditions, and shall continue until coverage is reinstated as
6 described in (c) of this subsection.

7 (b) Services performed for an Indian tribe or tribal unit are not
8 services in "employment" for purposes of sections 2 and 3 of this act
9 if:

10 (i) The Indian tribe or tribal unit is a contribution-paying
11 employer; and

12 (ii) The Indian tribe or tribal unit either: (A) Did not make
13 required payments, including assessments of interest and penalties,
14 within one hundred eighty days of receipt of statement; or (B) entered
15 into an approved agency deferred payment contract, and was not in
16 compliance with the contract on the last day of the current calendar
17 quarter.

18 This revocation of coverage shall begin on the first day of the
19 first calendar quarter after the Indian tribe or tribal unit meets
20 these conditions, and shall continue until coverage is reinstated as
21 described in (c) of this subsection.

22 (c) The commissioner may reinstate coverage if the Indian tribe or
23 tribal unit has made required payments, including assessments of
24 interest and penalties. This reinstatement of coverage may begin on
25 the first day of the first calendar quarter after these payments are
26 made.

27 (3)(a) The commissioner shall immediately notify the United States
28 internal revenue service and the United States department of labor if
29 an Indian tribe or tribal unit does not make required payments,
30 including assessments of interest and penalties, within ninety days of
31 receipt of statement.

32 (b) The commissioner shall immediately notify the United States
33 internal revenue service and the United States department of labor of
34 any revocation or reinstatement of the option to make payments in lieu
35 of contributions under subsection (1) of this section or any revocation
36 or reinstatement of coverage under subsection (2) of this section.

37 NEW SECTION. **Sec. 7.** Notices of payment and reporting delinquency
38 to Indian tribes or their tribal units must include information that

1 failure to make full payment within the prescribed time frames: (1)
2 Causes the Indian tribe to be liable for taxes under the federal
3 unemployment tax act; (2) causes the Indian tribe to lose the option to
4 make payments in lieu of contributions; and (3) causes the Indian tribe
5 to be excepted from the definition of "employing unit," as provided in
6 RCW 50.04.090, and services in the employ of the Indian tribe, as
7 provided in sections 2 and 3 of this act, to be excepted from
8 "employment."

9 NEW SECTION. **Sec. 8.** Extended benefits paid that are attributable
10 to service in the employ of an Indian tribe and not reimbursed by the
11 federal government must be financed in their entirety by such Indian
12 tribe.

13 NEW SECTION. **Sec. 9.** Unless specifically addressed in this
14 chapter, Indian tribes or their tribal units are subject to the same
15 terms and conditions as are other employers subject to contributions
16 under RCW 50.29.020 or other units of government under RCW 50.44.030
17 that make payments in lieu of contributions.

18
19 NEW SECTION. **Sec. 10.** If any part of this act is found to be in
20 conflict with federal requirements that are a prescribed condition to
21 the allocation of federal funds to the state or the eligibility of
22 employers in this state for federal unemployment tax credits, the
23 conflicting part of this act is inoperative solely to the extent of the
24 conflict, and the finding or determination does not affect the
25 operation of the remainder of this act. Rules adopted under this act
26 must meet federal requirements that are a necessary condition to the
27 receipt of federal funds by the state or the granting of federal
28 unemployment tax credits to employers in this state.

29 NEW SECTION. **Sec. 11.** If any provision of this act or its
30 application to any person or circumstance is held invalid, the
31 remainder of the act or the application of the provision to other
32 persons or circumstances is not affected.

33 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
34 preservation of the public peace, health, or safety, or support of the

1 state government and its existing public institutions, and takes effect
2 immediately.

3 NEW SECTION. **Sec. 13.** This act applies retroactively to services
4 performed on or after December 21, 2000. Indian tribes or tribal units
5 may elect to make payments in lieu of contributions effective December
6 21, 2000, or a subsequent date.

7 NEW SECTION. **Sec. 14.** Sections 3 through 9 of this act constitute
8 a new chapter in Title 50 RCW.

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