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SENATE BILL 6754

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State of Washington 57th Legislature

2002 Regular Session

By Senators Franklin, Fairley, B. Sheldon, Prentice, Brown, Rasmussen, Fraser, McAuliffe, Costa, Shin, Gardner, Kohl-Welles, Thibaudeau, Spanel, Jacobsen, Regala, Kline and Keiser

Read first time 02/01/2002. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to allowing unemployment benefits during lockouts;  
2 amending RCW 50.20.120 and 50.04.030; adding a new section to chapter  
3 50.29 RCW; and creating new sections.

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

5 **Sec. 1.** RCW 50.20.120 and 1993 c 483 s 12 are each amended to read  
6 as follows:

7 (1)(a) Subject to the other provisions of this title, benefits  
8 shall be payable to any eligible individual during the individual's  
9 benefit year in a maximum amount equal to the lesser of thirty times  
10 the weekly benefit amount (determined hereinafter) or one-third of the  
11 individual's base year wages under this title(~~(:—PROVIDED, That as~~  
12 ~~to)).~~ However, maximum benefits may exceed this amount if the eligible  
13 individual's unemployment is due to a lockout by his or her employer,  
14 in which case benefits shall be payable in a maximum amount equal to  
15 sixty times the weekly benefit amount or until the lockout is  
16 terminated, whichever occurs first.

17 (b) For any week beginning on and after March 31, 1981, which falls  
18 in an extended benefit period as defined in RCW 50.22.010(1), (~~as now~~  
19 ~~or hereafter amended,)) an individual's eligibility for maximum~~

1 benefits in excess of twenty-six times his or her weekly benefit amount  
2 will be subject to the terms and conditions set forth in RCW  
3 50.22.020(~~(, as now or hereafter amended)~~)).

4 (2) An individual's weekly benefit amount shall be an amount equal  
5 to one twenty-fifth of the average quarterly wages of the individual's  
6 total wages during the two quarters of the individual's base year in  
7 which such total wages were highest. The maximum and minimum amounts  
8 payable weekly shall be determined as of each June 30th to apply to  
9 benefit years beginning in the twelve-month period immediately  
10 following such June 30th. The maximum amount payable weekly shall be  
11 seventy percent of the "average weekly wage" for the calendar year  
12 preceding such June 30th. The minimum amount payable weekly shall be  
13 fifteen percent of the "average weekly wage" for the calendar year  
14 preceding such June 30th. If any weekly benefit, maximum benefit, or  
15 minimum benefit amount computed herein is not a multiple of one dollar,  
16 it shall be reduced to the next lower multiple of one dollar.

17 **Sec. 2.** RCW 50.04.030 and 1991 c 117 s 1 are each amended to read  
18 as follows:

19 (1) "Benefit year" with respect to each individual, means the  
20 fifty-two consecutive week period beginning with the first day of the  
21 calendar week in which the individual files an application for an  
22 initial determination and thereafter the fifty-two consecutive week  
23 period beginning with the first day of the calendar week in which the  
24 individual next files an application for an initial determination after  
25 the expiration of the individual's last preceding benefit year:  
26 PROVIDED, HOWEVER, That the foregoing limitation shall not be deemed to  
27 preclude the establishment of a new benefit year under the laws of  
28 another state pursuant to any agreement providing for the interstate  
29 combining of employment and wages and the interstate payment of  
30 benefits nor shall this limitation be deemed to preclude the  
31 commissioner from backdating an initial application at the request of  
32 the claimant either for the convenience of the department of employment  
33 security or for any other reason deemed by the commissioner to be good  
34 cause.

35 (2) An individual's benefit year shall be extended to:

36 (a) Be fifty-three weeks when at the expiration of fifty-two weeks  
37 the establishment of a new benefit year would result in the use of a

1 quarter of wages in the new base year that had been included in the  
2 individual's prior base year; or

3 (b) The termination of the lockout or until benefits in a maximum  
4 amount of sixty times the weekly benefit amount are paid, whichever  
5 occurs first, if, at the expiration of the fifty-two weeks, the  
6 individual's benefits continue to be payable under RCW 50.20.120(1)(a)  
7 due to a lockout.

8 (3)(a) No benefit year will be established unless it is determined  
9 that the individual earned wages in "employment" in not less than six  
10 hundred eighty hours of the individual's base year: PROVIDED, HOWEVER,  
11 That a benefit year cannot be established if the base year wages  
12 include wages earned prior to the establishment of a prior benefit year  
13 unless the individual worked and earned wages since the last separation  
14 from employment immediately before the application for initial  
15 determination in the previous benefit year if the applicant was an  
16 unemployed individual at the time of application, or since the initial  
17 separation in the previous benefit year if the applicant was not an  
18 unemployed individual at the time of filing an application for initial  
19 determination for the previous benefit year, of not less than six times  
20 the weekly benefit amount computed for the individual's new benefit  
21 year.

22 (b) If an individual's prior benefit year was based on the last  
23 four completed calendar quarters, a new benefit year shall not be  
24 established until the new base year does not include any hours used in  
25 the establishment of the prior benefit year.

26 (4) If the wages of an individual are not based upon a fixed  
27 duration of time or if the individual's wages are paid at irregular  
28 intervals or in such manner as not to extend regularly over the period  
29 of employment, the wages for any week shall be determined in such  
30 manner as the commissioner may by regulation prescribe. Such  
31 regulation shall, so far as possible, secure results reasonably similar  
32 to those which would prevail if the individual were paid his or her  
33 wages at regular intervals.

34 NEW SECTION. Sec. 3. A new section is added to chapter 50.29 RCW  
35 to read as follows:

36 (1) Beginning with rate year 2002, if unemployment benefits are  
37 paid to claimants in any calendar quarter that exceed the maximum  
38 benefit amount under RCW 50.20.120(1)(a) due to a lockout by the

1 employer, and the employer is assigned the contribution rate of rate  
2 class 20 under RCW 50.29.025, or is assigned the contribution rate  
3 under RCW 50.29.025(6)(a), for the rate year that includes that  
4 calendar quarter, the employer's contributions for that calendar  
5 quarter under RCW 50.24.010 shall equal the total of the following:

6 (a) The amount of contributions determined under RCW 50.29.025;

7 (b) An amount equal to the full amount of benefits paid in the  
8 calendar quarter to the locked out claimants less the amount paid under  
9 (a) of this subsection; and

10 (c) The amount of the costs related to administering the benefits  
11 paid to the locked out claimants not otherwise paid or payable from  
12 federal funds.

13 (2) At the end of each calendar quarter, the commissioner shall  
14 notify employers subject to this section, and shall include in each  
15 employer's contribution notice for the calendar quarter a billing for  
16 the amount determined under this section. Contributions shall become  
17 due and be paid as prescribed by the commissioner for contributions  
18 under RCW 50.24.010.

19 (3) RCW 50.29.062 shall not apply to employers subject to this  
20 section. For purposes of RCW 50.24.010, the contribution rate of a  
21 successor employer to an employer subject to this section shall be the  
22 contribution rate of the rate class assigned to the predecessor  
23 employer at the time of the transfer for the remainder of that rate  
24 year. Any experience relating to the assignment of that rate class  
25 attributable to the predecessor is transferred to the successor.  
26 Beginning on the January 1st following the transfer, the successor's  
27 assigned contribution rate for purposes of RCW 50.24.010 shall be based  
28 on the transferred experience of the acquired business and the  
29 successor's experience after the transfer.

30 NEW SECTION. **Sec. 4.** If any part of this act is found to be in  
31 conflict with federal requirements that are a prescribed condition to  
32 the allocation of federal funds to the state or the eligibility of  
33 employers in this state for federal unemployment tax credits, the  
34 conflicting part of this act is inoperative solely to the extent of the  
35 conflict, and the finding or determination does not affect the  
36 operation of the remainder of this act. Rules adopted under this act  
37 must meet federal requirements that are a necessary condition to the

1 receipt of federal funds by the state or the granting of federal  
2 unemployment tax credits to employers in this state.

3 NEW SECTION. **Sec. 5.** If any provision of this act or its  
4 application to any person or circumstance is held invalid, the  
5 remainder of the act or the application of the provision to other  
6 persons or circumstances is not affected.

7 NEW SECTION. **Sec. 6.** This act applies to claimants who were  
8 locked out by their employers after January 1, 2002. A claimant who  
9 exhausted benefits before the effective date of this section has the  
10 option of remaining on the original claim or filing a new claim.

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