

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE HOUSE BILL 1906**

Chapter 3, Laws of 2009

61st Legislature  
2009 Regular Session

ECONOMIC SECURITY ACT--UNEMPLOYMENT COMPENSATION

EFFECTIVE DATE: 04/05/09

Passed by the House February 13, 2009  
Yeas 93 Nays 2

FRANK CHOPP

\_\_\_\_\_  
**Speaker of the House of Representatives**

Passed by the Senate February 12, 2009  
Yeas 43 Nays 4

BRAD OWEN

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**President of the Senate**

Approved February 16, 2009, 3:44 p.m.

CHRISTINE GREGOIRE

\_\_\_\_\_  
**Governor of the State of Washington**

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1906** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

\_\_\_\_\_  
**Chief Clerk**

FILED

February 17, 2009

**Secretary of State  
State of Washington**



1 additional forty-five dollars. For individuals who have a balance of  
2 regular unemployment benefits available, the weekly benefit amount  
3 under this subsection (2)(a) is payable for all remaining weeks of  
4 regular, extended, emergency, supplemental, or additional benefits on  
5 that claim. For individuals who have exhausted regular benefits but  
6 have a balance of training benefits available as provided in section 4  
7 of this act or RCW 50.22.150, the weekly benefit amount under this  
8 subsection (2)(a) is payable for all remaining weeks of training  
9 benefits, but not for weeks of extended, emergency, supplemental, or  
10 additional benefits on that claim unless specifically authorized under  
11 federal or state law.

12 (b) For claims with an effective date on or after May 3, 2009, and  
13 before January 3, 2010, an individual's weekly benefit amount shall be  
14 the amount established under RCW 50.20.120 and subsection (3) of this  
15 section plus an additional forty-five dollars. The weekly benefit  
16 amount under this subsection (2)(b) is payable for all weeks of  
17 regular, extended, emergency, supplemental, or additional benefits on  
18 that claim.

19 (3)(a) For benefit years beginning before May 3, 2009, in weeks of  
20 unemployment beginning on or after May 3, 2009, the minimum amount  
21 payable weekly shall be one hundred fifty-five dollars. For  
22 individuals who have a balance of regular unemployment benefits  
23 available, the minimum amount payable weekly under this subsection  
24 (3)(a) is payable for all remaining weeks of regular, extended,  
25 emergency, supplemental, or additional benefits on that claim. For  
26 individuals who have exhausted regular benefits but have a balance of  
27 training benefits available as provided in section 4 of this act or RCW  
28 50.22.150, the minimum amount payable weekly under this subsection  
29 (3)(a) is payable for all remaining weeks of training benefits, but not  
30 for weeks of extended, emergency, supplemental, or additional benefits  
31 on that claim unless specifically authorized under federal or state  
32 law.

33 (b) For benefit years beginning on or after May 3, 2009, and before  
34 January 3, 2010, the minimum amount payable weekly shall be one hundred  
35 fifty-five dollars. The minimum amount payable weekly under this  
36 subsection (3)(b) is payable for all weeks of regular, extended,  
37 emergency, supplemental, or additional benefits on that claim.

1 (4) The weekly benefit amounts and the minimum amounts payable  
2 weekly under this section shall increase the maximum benefits payable  
3 to the individual under RCW 50.20.120(1) by a corresponding dollar  
4 amount.

5 (5) The weekly benefit amounts under this section shall increase  
6 the maximum amount payable weekly, irrespective of the provisions of  
7 RCW 50.20.120(3).

8 (6) Payment of benefits to individuals whose weekly benefit amounts  
9 are increased under this section shall be subject to the same terms and  
10 conditions under this title that apply to the payment of benefits to  
11 individuals whose benefit amounts are established under RCW 50.20.120.

12 (7) This section does not apply to claims with an effective date on  
13 or after January 3, 2010.

14 **Sec. 3.** RCW 50.20.120 and 2006 c 13 s 1 are each amended to read  
15 as follows:

16 Except as provided in section 2 of this act, benefits shall be  
17 payable as provided in this section.

18 ~~(1)((a) Subject to the other provisions of this title, benefits~~  
19 ~~shall be payable to any eligible individual during the individual's~~  
20 ~~benefit year in a maximum amount equal to the lesser of thirty times~~  
21 ~~the weekly benefit amount, as determined in subsection (2) of this~~  
22 ~~section, or one third of the individual's base year wages under this~~  
23 ~~title: PROVIDED, That as to any week which falls in an extended~~  
24 ~~benefit period as defined in RCW 50.22.010(1), an individual's~~  
25 ~~eligibility for maximum benefits in excess of twenty six times his or~~  
26 ~~her weekly benefit amount will be subject to the terms and conditions~~  
27 ~~set forth in RCW 50.22.020.~~

28 ~~(b) With respect to claims that have an effective date on or after~~  
29 ~~the first Sunday of the calendar month immediately following the month~~  
30 ~~in which the commissioner finds that the state unemployment rate is six~~  
31 ~~and eight tenths percent or less,)) For claims with an effective date~~  
32 ~~on or after April 4, 2004, benefits shall be payable to any eligible~~  
33 ~~individual during the individual's benefit year in a maximum amount~~  
34 ~~equal to the lesser of twenty-six times the weekly benefit amount, as~~  
35 ~~determined in subsection (2) of this section, or one-third of the~~  
36 ~~individual's base year wages under this title.~~

1           ~~(2)((a) For claims with an effective date before January 4, 2004,~~  
2 ~~an individual's weekly benefit amount shall be an amount equal to one~~  
3 ~~twenty-fifth of the average quarterly wages of the individual's total~~  
4 ~~wages during the two quarters of the individual's base year in which~~  
5 ~~such total wages were highest.~~

6           ~~(b) With respect to claims with an effective date on or after~~  
7 ~~January 4, 2004, and before January 2, 2005, an individual's weekly~~  
8 ~~benefit amount shall be an amount equal to one-twenty-fifth of the~~  
9 ~~average quarterly wages of the individual's total wages during the~~  
10 ~~three quarters of the individual's base year in which such total wages~~  
11 ~~were highest.~~

12           ~~(c)(i) With respect to claims with an effective date on or after~~  
13 ~~January 2, 2005, except as provided in (c)(ii) of this subsection, an~~  
14 ~~individual's weekly benefit amount shall be an amount equal to one~~  
15 ~~percent of the total wages paid in the individual's base year.~~

16           ~~(ii) With respect to~~) For claims with an effective date on or  
17 after ~~((the first Sunday following))~~ April ~~((22))~~ 24, 2005, an  
18 individual's weekly benefit amount shall be an amount equal to three  
19 and eighty-five one-hundredths percent of the average quarterly wages  
20 of the individual's total wages during the two quarters of the  
21 individual's base year in which such total wages were highest.

22           (3) The maximum and minimum amounts payable weekly shall be  
23 determined as of each June 30th to apply to benefit years beginning in  
24 the twelve-month period immediately following such June 30th.

25           ~~(a)((i) With respect to claims that have an effective date before~~  
26 ~~January 4, 2004, the maximum amount payable weekly shall be seventy~~  
27 ~~percent of the "average weekly wage" for the calendar year preceding~~  
28 ~~such June 30th.~~

29           ~~(ii) With respect to claims that have an effective date on or after~~  
30 ~~January 4, 2004,))~~ The maximum amount payable weekly shall be either  
31 four hundred ninety-six dollars or sixty-three percent of the "average  
32 weekly wage" for the calendar year preceding such June 30th, whichever  
33 is greater.

34           (b) The minimum amount payable weekly shall be fifteen percent of  
35 the "average weekly wage" for the calendar year preceding such June  
36 30th.

37           (4) If any weekly benefit, maximum benefit, or minimum benefit

1 amount computed herein is not a multiple of one dollar, it shall be  
2 reduced to the next lower multiple of one dollar.

3 **PART II - TRAINING BENEFITS PROGRAMS**

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.22 RCW  
5 to read as follows:

6 (1) This section applies to claims with an effective date on or  
7 after April 5, 2009.

8 (2) Subject to availability of funds, training benefits are  
9 available for an individual who is eligible for or has exhausted  
10 entitlement to unemployment compensation benefits when:

11 (a) The individual is a dislocated worker as defined in RCW  
12 50.04.075 and, after assessment of the individual's labor market,  
13 occupation, or skills, is determined to need job-related training to  
14 find suitable employment in the individual's labor market. The  
15 assessment of demand for the individual's occupation or skill sets must  
16 be substantially based on declining occupation or skill sets and high-  
17 demand occupations identified in local labor market areas by the local  
18 workforce development councils in cooperation with the employment  
19 security department and its labor market information division; or

20 (b) For claims with an effective date on or after September 7,  
21 2009, the individual:

22 (i) Earned an average hourly wage in the individual's base year  
23 that is less than one hundred thirty percent of the state minimum wage,  
24 and after assessment, it is determined that the individual's earning  
25 potential will be enhanced through vocational training. The  
26 individual's average hourly wage is calculated by dividing the total  
27 wages paid by the total hours worked in the individual's base year;

28 (ii) Served in the United States military or the Washington  
29 national guard during the twelve-month period prior to the application  
30 date, was honorably discharged from military service or the Washington  
31 national guard and, after assessment, is determined to need job-related  
32 training to find suitable employment in the individual's labor market;

33 (iii) Is currently serving in the Washington national guard and,  
34 after assessment, is determined to need job-related training to find  
35 suitable employment in the individual's labor market; or

1 (iv) Is disabled due to an injury or illness and, after assessment,  
2 is determined to be unable to return to his or her previous occupation  
3 and to need job-related training to find suitable employment in the  
4 individual's labor market.

5 (3)(a) The individual must develop an individual training program  
6 that is submitted to the commissioner for approval within ninety days  
7 after the individual is notified by the employment security department  
8 of the requirements of this section;

9 (b) The individual must enter the approved training program by one  
10 hundred twenty days after the date of the notification, unless the  
11 employment security department determines that the training is not  
12 available during the one hundred twenty days, in which case the  
13 individual enters training as soon as it is available;

14 (c) The department may waive the deadlines established under this  
15 subsection for reasons deemed by the commissioner to be good cause.

16 (4) The individual must be enrolled in training approved under this  
17 section on a full-time basis as determined by the educational  
18 institution, except that less than full-time training may be approved  
19 when the individual has a physical, mental, or emotional disability  
20 that precludes enrollment on a full-time basis.

21 (5) The individual must make satisfactory progress in the training  
22 as defined by the commissioner and certified by the educational  
23 institution.

24 (6) An individual is not eligible for training benefits under this  
25 section if he or she:

26 (a) Is a standby claimant who expects recall to his or her regular  
27 employer; or

28 (b) Has a definite recall date that is within six months of the  
29 date he or she is laid off.

30 (7) The following definitions apply throughout this section unless  
31 the context clearly requires otherwise.

32 (a) "Educational institution" means an institution of higher  
33 education as defined in RCW 28B.10.016 or an educational institution as  
34 defined in RCW 28C.04.410, including equivalent educational  
35 institutions in other states.

36 (b) "High-demand occupation" means an occupation with a substantial  
37 number of current or projected employment opportunities.

1 (c) "Training benefits" means additional benefits paid under this  
2 section.

3 (d) "Training program" means:

4 (i) An education program determined to be necessary as a  
5 prerequisite to vocational training after counseling at the educational  
6 institution in which the individual enrolls under his or her approved  
7 training program; or

8 (ii) A vocational training program at an educational institution  
9 that:

10 (A) Is targeted to training for a high-demand occupation;

11 (B) Is likely to enhance the individual's marketable skills and  
12 earning power; and

13 (C) Meets the criteria for performance developed by the workforce  
14 training and education coordinating board for the purpose of  
15 determining those training programs eligible for funding under Title I  
16 of P.L. 105-220.

17 "Training program" does not include any course of education  
18 primarily intended to meet the requirements of a baccalaureate or  
19 higher degree, unless the training meets specific requirements for  
20 certification, licensing, or for specific skills necessary for the  
21 occupation.

22 (8) Benefits shall be paid as follows:

23 (a) The total training benefit amount shall be fifty-two times the  
24 individual's weekly benefit amount, reduced by the total amount of  
25 regular benefits and extended benefits paid, or deemed paid, with  
26 respect to the benefit year.

27 (b) The weekly benefit amount shall be the same as the regular  
28 weekly amount payable during the applicable benefit year and shall be  
29 paid under the same terms and conditions as regular benefits.

30 (c) Training benefits shall be paid before any extended benefits  
31 but not before any similar federally funded program.

32 (d) Training benefits are not payable for weeks more than two years  
33 beyond the end of the benefit year of the regular claim.

34 (9) The requirement under RCW 50.22.010(10) relating to exhausting  
35 regular benefits does not apply to an individual otherwise eligible for  
36 training benefits under this section when the individual's benefit year  
37 ends before his or her training benefits are exhausted and the



1 individual is eligible for a new benefit year. These individuals will  
2 have the option of remaining on the original claim or filing a new  
3 claim.

4 (10) Individuals who receive training benefits under RCW 50.22.150  
5 or this section are not eligible for training benefits under this  
6 section for five years from the last receipt of training benefits.

7 (11) An individual eligible to receive a trade readjustment  
8 allowance under chapter 2, Title II of the trade act of 1974, as  
9 amended, shall not be eligible to receive benefits under this section  
10 for each week the individual receives such trade readjustment  
11 allowance.

12 (12) An individual eligible to receive emergency unemployment  
13 compensation under any federal law shall not be eligible to receive  
14 benefits under this section for each week the individual receives such  
15 compensation.

16 (13) All base year employers are interested parties to the approval  
17 of training and the granting of training benefits.

18 (14) Each local workforce development council, in cooperation with  
19 the employment security department and its labor market information  
20 division, must identify occupations and skill sets that are declining  
21 and high-demand occupations and skill sets. Each local workforce  
22 development council shall update this information annually or more  
23 frequently if needed.

24 (15) The commissioner shall adopt rules as necessary to implement  
25 this section.

26 **Sec. 5.** RCW 50.22.150 and 2002 c 149 s 2 are each amended to read  
27 as follows:

28 (1) This section applies to claims with an effective date before  
29 April 5, 2009.

30 (2) Subject to availability of funds, training benefits are  
31 available for an individual who is eligible for or has exhausted  
32 entitlement to unemployment compensation benefits and who:

33 (a) Is a dislocated worker as defined in RCW 50.04.075;

34 (b) Except as provided under subsection ~~((2))~~ (3) of this  
35 section, has demonstrated, through a work history, sufficient tenure in  
36 an occupation or in work with a particular skill set. This screening  
37 will take place during the assessment process;

1 (c) Is, after assessment of demand for the individual's occupation  
2 or skills in the individual's labor market, determined to need job-  
3 related training to find suitable employment in his or her labor  
4 market. Beginning July 1, 2001, the assessment of demand for the  
5 individual's occupation or skill sets must be substantially based on  
6 declining occupation or skill sets identified in local labor market  
7 areas by the local workforce development councils, in cooperation with  
8 the employment security department and its labor market information  
9 division, under subsection (~~((+10))~~) (11) of this section;

10 (d) Develops an individual training program that is submitted to  
11 the commissioner for approval within sixty days after the individual is  
12 notified by the employment security department of the requirements of  
13 this section;

14 (e) Enters the approved training program by ninety days after the  
15 date of the notification, unless the employment security department  
16 determines that the training is not available during the ninety-day  
17 period, in which case the individual enters training as soon as it is  
18 available; and

19 (f) Is enrolled in training approved under this section on a full-  
20 time basis as determined by the educational institution, and is making  
21 satisfactory progress in the training as certified by the educational  
22 institution.

23 (~~((+2))~~) (3) Until June 30, 2002, the following individuals who meet  
24 the requirements of subsection (~~((+1))~~) (2) of this section may, without  
25 regard to the tenure requirements under subsection (~~((+1))~~) (2)(b) of  
26 this section, receive training benefits as provided in this section:

27 (a) An exhaustee who has base year employment in the aerospace  
28 industry assigned the standard industrial classification code "372" or  
29 the North American industry classification system code "336411";

30 (b) An exhaustee who has base year employment in the forest  
31 products industry, determined by the department, but including the  
32 industries assigned the major group standard industrial classification  
33 codes "24" and "26" or any equivalent codes in the North American  
34 industry classification system code, and the industries involved in the  
35 harvesting and management of logs, transportation of logs and wood  
36 products, processing of wood products, and the manufacturing and  
37 distribution of wood processing and logging equipment; or

1 (c) An exhaustee who has base year employment in the fishing  
2 industry assigned the standard industrial classification code "0912" or  
3 any equivalent codes in the North American industry classification  
4 system code.

5 (~~(+3)~~) (4) An individual is not eligible for training benefits  
6 under this section if he or she:

7 (a) Is a standby claimant who expects recall to his or her regular  
8 employer;

9 (b) Has a definite recall date that is within six months of the  
10 date he or she is laid off; or

11 (c) Is unemployed due to a regular seasonal layoff which  
12 demonstrates a pattern of unemployment consistent with the provisions  
13 of RCW 50.20.015. Regular seasonal layoff does not include layoff due  
14 to permanent structural downsizing or structural changes in the  
15 individual's labor market.

16 (~~(+4)~~) (5) The definitions in this subsection apply throughout  
17 this section unless the context clearly requires otherwise.

18 (a) "Educational institution" means an institution of higher  
19 education as defined in RCW 28B.10.016 or an educational institution as  
20 defined in RCW 28C.04.410, including equivalent educational  
21 institutions in other states.

22 (b) "Sufficient tenure" means earning a plurality of wages in a  
23 particular occupation or using a particular skill set during the base  
24 year and at least two of the four twelve-month periods immediately  
25 preceding the base year.

26 (c) "Training benefits" means additional benefits paid under this  
27 section.

28 (d) "Training program" means:

29 (i) An education program determined to be necessary as a  
30 prerequisite to vocational training after counseling at the educational  
31 institution in which the individual enrolls under his or her approved  
32 training program; or

33 (ii) A vocational training program at an educational institution:

34 (A) That is targeted to training for a high demand occupation.  
35 Beginning July 1, 2001, the assessment of high demand occupations  
36 authorized for training under this section must be substantially based  
37 on labor market and employment information developed by local workforce

1 development councils, in cooperation with the employment security  
2 department and its labor market information division, under subsection  
3 (~~(10)~~) (11) of this section;

4 (B) That is likely to enhance the individual's marketable skills  
5 and earning power; and

6 (C) That meets the criteria for performance developed by the  
7 workforce training and education coordinating board for the purpose of  
8 determining those training programs eligible for funding under Title I  
9 of P.L. 105-220.

10 "Training program" does not include any course of education  
11 primarily intended to meet the requirements of a baccalaureate or  
12 higher degree, unless the training meets specific requirements for  
13 certification, licensing, or for specific skills necessary for the  
14 occupation.

15 (~~(5)~~) (6) Benefits shall be paid as follows:

16 (a)(i) Except as provided in (a)(iii) of this subsection, for  
17 exhaustees who are eligible under subsection (~~(1)~~) (2) of this  
18 section, the total training benefit amount shall be fifty-two times the  
19 individual's weekly benefit amount, reduced by the total amount of  
20 regular benefits and extended benefits paid, or deemed paid, with  
21 respect to the benefit year; or

22 (ii) For exhaustees who are eligible under subsection (~~(2)~~) (3)  
23 of this section, for claims filed before June 30, 2002, the total  
24 training benefit amount shall be seventy-four times the individual's  
25 weekly benefit amount, reduced by the total amount of regular benefits  
26 and extended benefits paid, or deemed paid, with respect to the benefit  
27 year; or

28 (iii) For exhaustees eligible under subsection (~~(1)~~) (2) of this  
29 section from industries listed under subsection (~~(2)~~) (3)(a) of this  
30 section, for claims filed on or after June 30, 2002, but before January  
31 5, 2003, the total training benefit amount shall be seventy-four times  
32 the individual's weekly benefit amount, reduced by the total amount of  
33 regular benefits and extended benefits paid, or deemed paid, with  
34 respect to the benefit year.

35 (b) The weekly benefit amount shall be the same as the regular  
36 weekly amount payable during the applicable benefit year and shall be  
37 paid under the same terms and conditions as regular benefits. The

1 training benefits shall be paid before any extended benefits but not  
2 before any similar federally funded program.

3 (c) Training benefits are not payable for weeks more than two years  
4 beyond the end of the benefit year of the regular claim.

5 ~~((+6+))~~ (7) The requirement under RCW 50.22.010(10) relating to  
6 exhausting regular benefits does not apply to an individual otherwise  
7 eligible for training benefits under this section when the individual's  
8 benefit year ends before his or her training benefits are exhausted and  
9 the individual is eligible for a new benefit year. These individuals  
10 will have the option of remaining on the original claim or filing a new  
11 claim.

12 ~~((+7+))~~ (8)(a) Except as provided in (b) of this subsection,  
13 individuals who receive training benefits under this section or under  
14 any previous additional benefits program for training are not eligible  
15 for training benefits under this section for five years from the last  
16 receipt of training benefits under this section or under any previous  
17 additional benefits program for training.

18 (b) With respect to claims that are filed before January 5, 2003,  
19 an individual in the aerospace industry assigned the standard  
20 industrial code "372" or the North American industry classification  
21 system code "336411" who received training benefits under this section,  
22 and who had been making satisfactory progress in a training program but  
23 did not complete the program, is eligible, without regard to the five-  
24 year limitation of this section and without regard to the requirement  
25 of subsection ~~((+1+))~~ (2)(b) of this section, if applicable, to receive  
26 training benefits under this section in order to complete that training  
27 program. The total training benefit amount that applies to the  
28 individual is seventy-four times the individual's weekly benefit  
29 amount, reduced by the total amount of regular benefits paid, or deemed  
30 paid, with respect to the benefit year in which the training program  
31 resumed and, if applicable, reduced by the amount of training benefits  
32 paid, or deemed paid, with respect to the benefit year in which the  
33 training program commenced.

34 ~~((+8+))~~ (9) An individual eligible to receive a trade readjustment  
35 allowance under chapter 2 of Title II of the Trade Act of 1974, as  
36 amended, shall not be eligible to receive benefits under this section  
37 for each week the individual receives such trade readjustment  
38 allowance. An individual eligible to receive emergency unemployment

1 compensation, so called, under any federal law, shall not be eligible  
2 to receive benefits under this section for each week the individual  
3 receives such compensation.

4 ~~((+9+))~~ (10) All base year employers are interested parties to the  
5 approval of training and the granting of training benefits.

6 ~~((+10+))~~ (11) By July 1, 2001, each local workforce development  
7 council, in cooperation with the employment security department and its  
8 labor market information division, must identify occupations and skill  
9 sets that are declining and occupations and skill sets that are in high  
10 demand. For the purposes of RCW 50.22.130 through 50.22.150 and  
11 section 9, chapter 2, Laws of 2000, "high demand" means demand for  
12 employment that exceeds the supply of qualified workers for occupations  
13 or skill sets in a labor market area. Local workforce development  
14 councils must use state and locally developed labor market information.  
15 Thereafter, each local workforce development council shall update this  
16 information annually or more frequently if needed.

17 ~~((+11+))~~ (12) The commissioner shall adopt rules as necessary to  
18 implement this section.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.22 RCW  
20 to read as follows:

21 The employment security department shall report to the appropriate  
22 committees of the legislature by December 1, 2009, and every year  
23 thereafter, on the status of the training benefits program and the  
24 resulting outcomes. The department shall include in its report:

25 (1) A demographic analysis of participants in the training benefits  
26 program under this section including the number of claimants per North  
27 American industry classification system code and the gender, race, age,  
28 and geographic representation of participants;

29 (2) The duration of training benefits claimed per claimant;

30 (3) An analysis of the training provided to participants including  
31 the occupational category supported by the training, those participants  
32 who complete training in relationship to those that do not, and the  
33 reasons for noncompletion of approved training programs;

34 (4) The employment and wage history of participants, including the  
35 pretraining and posttraining wage and whether those participating in  
36 training return to their previous employer after training terminates;  
37 and

1 (5) An identification and analysis of administrative costs at both  
2 the local and state level for administering this program.

3 **PART III - SHARED WORK PROGRAM**

4 **Sec. 7.** RCW 50.60.020 and 1983 c 207 s 2 are each amended to read  
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in  
7 this section apply throughout this chapter.

8 (1) "Affected (~~(unit)~~) employee" means a specified (~~(plant,~~  
9 ~~department, shift, or other definable unit consisting of one or more~~  
10 ~~employees)~~) employee, to which an approved shared work compensation  
11 plan applies.

12 (2) "Fringe benefits" include health insurance, retirement benefits  
13 under benefit pension plans as defined in section 3(35) of the employee  
14 retirement income security act of 1974, paid vacation and holidays, and  
15 sick leave, which are incidents of employment in addition to cash  
16 remuneration.

17 (3) "Shared work benefits" means the benefits payable to  
18 (~~(employees in)~~) an affected (~~(unit)~~) employee under an approved shared  
19 work compensation plan as distinguished from the benefits otherwise  
20 payable under this title.

21 (4) "Shared work compensation plan" means a plan of an employer, or  
22 of an employers' association, under which there is a reduction in the  
23 number of hours worked by employees rather than temporary layoffs.

24 (5) "Shared work employer" means an employer, one or more of whose  
25 employees are covered by a shared work compensation plan.

26 (6) "Usual weekly hours of work" means the normal number of hours  
27 of work for (~~(full-time employees in the affected unit)~~) the affected  
28 employee when (~~(that unit)~~) he or she is (~~(operating)~~) working on a  
29 full-time basis, not to exceed forty hours and not including overtime.

30 (7) "Unemployment compensation" means the benefits payable under  
31 this title other than shared work benefits and includes any amounts  
32 payable pursuant to an agreement under federal law providing for  
33 compensation, assistance, or allowances with respect to unemployment.

34 (8) "Employers' association" means an association which is a party  
35 to a collective bargaining agreement under which there is a shared work  
36 compensation plan.

1       **Sec. 8.** RCW 50.60.030 and 1985 c 43 s 1 are each amended to read  
2 as follows:

3       An employer or employers' association wishing to participate in a  
4 shared work compensation program shall submit a written and signed  
5 shared work compensation plan to the commissioner for approval. The  
6 commissioner shall approve a shared work compensation plan only if the  
7 following criteria are met:

8       (1) The plan identifies the affected ~~((units))~~ employees to which  
9 it applies;

10       (2) ~~((An))~~ Each affected employee ~~((in an affected unit are))~~ is  
11 identified by name, social security number, and by any other  
12 information required by the commissioner;

13       (3) The usual weekly hours of work for ~~((an))~~ each affected  
14 employee ~~((in an affected unit))~~ are reduced by not less than ten  
15 percent and not more than fifty percent;

16       (4) Fringe benefits will continue to be provided on the same basis  
17 as before the reduction in work hours. In no event shall the level of  
18 health benefits be reduced due to a reduction in hours;

19       (5) The plan certifies that the aggregate reduction in work hours  
20 for each affected employee is in lieu of temporary layoffs ~~((which~~  
21 ~~would have affected at least ten percent of the employees in the~~  
22 ~~affected units to which the plan applies and))~~ which would have  
23 resulted in an equivalent reduction in work hours;

24       ~~((The plan applies to at least ten percent of the employees in~~  
25 ~~the affected unit;~~

26       ~~(+7))~~ The plan is approved in writing by the collective bargaining  
27 agent for each collective bargaining agreement covering any affected  
28 employee ~~((in the affected unit));~~

29       ~~((+8))~~ (7) The plan will not subsidize seasonal employers during  
30 the off season nor subsidize employers who have traditionally used  
31 part-time employees; and

32       ~~((+9))~~ (8) The employer agrees to furnish reports necessary for  
33 the proper administration of the plan and to permit access by the  
34 commissioner to all records necessary to verify the plan before  
35 approval and after approval to evaluate the application of the plan.

36       In addition to subsections (1) through ~~((+9))~~ (8) of this section,  
37 the commissioner shall take into account any other factors which may be  
38 pertinent.



1       **Sec. 9.** RCW 50.60.060 and 1983 c 207 s 6 are each amended to read  
2 as follows:

3       A shared work compensation plan shall be effective on the date  
4 (~~specified in the plan or on~~) agreed upon by the department and the  
5 employer but no later than the first day of the second calendar week  
6 after the date of the commissioner's approval, (~~whichever is later~~)  
7 unless a later date is requested by the employer. The plan shall  
8 expire at the end of the twelfth full calendar month after its  
9 effective date, or on the date specified in the plan if that date is  
10 earlier, unless the plan is revoked before that date by the  
11 commissioner. If a plan is revoked by the commissioner, it shall  
12 terminate on the date specified in the commissioner's order of  
13 revocation.

14       **Sec. 10.** RCW 50.60.070 and 1983 c 207 s 7 are each amended to read  
15 as follows:

16       The commissioner may revoke approval of a shared work compensation  
17 plan for good cause. The revocation order shall be in writing and  
18 shall specify the date the revocation is effective and the reasons for  
19 the revocation. Good cause for revocation shall include failure to  
20 comply with the assurances given in the plan, unreasonable revision of  
21 productivity standards (~~for the affected unit~~), conduct or  
22 occurrences tending to defeat the intent and effective operation of the  
23 plan, and violation of the criteria on which approval of the plan was  
24 based.

25       Such action may be initiated at any time by the commissioner on his  
26 or her own motion, on the motion of any of the affected (~~unit~~)  
27 employees, or on the motion of the appropriate collective bargaining  
28 agents. The commissioner shall review each plan at least once within  
29 the twelve month period the plan is in effect to assure that it  
30 continues to meet the requirements of this chapter.

31       **Sec. 11.** RCW 50.60.090 and 1983 c 207 s 9 are each amended to read  
32 as follows:

33       An individual is eligible to receive shared work benefits with  
34 respect to any week only if, in addition to meeting the conditions of  
35 eligibility for other benefits under this title, the commissioner finds  
36 that:

1 (1) The individual was employed during that week as (~~(a member of)~~)  
2 an affected (~~(unit)~~) employee under an approved shared work  
3 compensation plan which was in effect for that week;

4 (2) The individual was able to work and was available for  
5 additional hours of work and for full-time work with the shared work  
6 employer; and

7 (3) Notwithstanding any other provision of this chapter, an  
8 individual is deemed to have been unemployed in any week for which  
9 remuneration is payable to him or her as an affected employee (~~(in an~~  
10 ~~affected unit)~~) for less than his or her normal weekly hours of work as  
11 specified under the approved shared work compensation plan in effect  
12 for that week.

13 **Sec. 12.** RCW 50.60.100 and 1983 c 207 s 10 are each amended to  
14 read as follows:

15 (1) The shared work weekly benefit amount shall be the product of  
16 the regular weekly unemployment compensation benefit amount multiplied  
17 by the percentage of reduction in the individual's usual weekly hours  
18 of work;

19 (2) No individual is eligible in any benefit year for more than the  
20 maximum entitlement established for benefits under this title,  
21 including benefits under this chapter(~~(, nor may an individual be paid~~  
22 ~~shared work benefits for more than a total of twenty six weeks in any~~  
23 ~~twelve month period under a shared work compensation plan))~~);

24 (3) The shared work benefits paid an individual shall be deducted  
25 from the total benefit amount established for that individual's benefit  
26 year;

27 (4) Claims for shared work benefits shall be filed in the same  
28 manner as claims for other benefits under this title or as prescribed  
29 by the commissioner by rule;

30 (5) Provisions otherwise applicable to unemployment compensation  
31 claimants under this title apply to shared work claimants to the extent  
32 that they are not inconsistent with this chapter;

33 (6)(a) If an individual works in the same week for an employer  
34 other than the shared work employer and his or her combined hours of  
35 work for both employers are equal to or greater than the usual weekly  
36 hours of work with the shared work employer, the individual shall not  
37 be entitled to benefits under this chapter or title;

1 (b) If an individual works in the same week for both the shared  
2 work employer and another employer and his or her combined hours of  
3 work for both employers are less than his or her usual weekly hours of  
4 work, the benefit amount payable for that week shall be the weekly  
5 unemployment compensation benefit amount reduced by the same percentage  
6 that the combined hours are of the usual weekly hours of work(~~(.—A~~  
7 ~~week for which benefits are paid under this subsection shall count as~~  
8 ~~a week of shared work benefits))~~);

9 (7) An individual who does not work during a week for the shared  
10 work employer, and is otherwise eligible, shall be paid his or her full  
11 weekly unemployment compensation benefit amount(~~(.—Such a week shall~~  
12 ~~not be counted as a week for which shared work benefits were~~  
13 ~~received))~~);

14 (8) An individual who does not work for the shared work employer  
15 during a week but works for another employer, and is otherwise  
16 eligible, shall be paid benefits for that week under the partial  
17 unemployment compensation provisions of this title. (~~(Such a week~~  
18 ~~shall not be counted as a week for which shared work benefits were~~  
19 ~~received.))~~)

#### 20 PART IV - EXPERIENCE RATING AND CONTRIBUTION RATES

21 **Sec. 13.** RCW 50.29.021 and 2008 c 323 s 2 are each amended to read  
22 as follows:

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

26 (2)(a) An experience rating account shall be established and  
27 maintained for each employer, except employers as described in RCW  
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
29 payments in lieu of contributions, taxable local government employers  
30 as described in RCW 50.44.035, and those employers who are required to  
31 make payments in lieu of contributions, based on existing records of  
32 the employment security department.

33 (b) Benefits paid to an eligible individual shall be charged to the  
34 experience rating accounts of each of such individual's employers  
35 during the individual's base year in the same ratio that the wages paid

1 by each employer to the individual during the base year bear to the  
2 wages paid by all employers to that individual during that base year,  
3 except as otherwise provided in this section.

4 (c) When the eligible individual's separating employer is a covered  
5 contribution paying base year employer, benefits paid to the eligible  
6 individual shall be charged to the experience rating account of only  
7 the individual's separating employer if the individual qualifies for  
8 benefits under:

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

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

12 (3) The legislature finds that certain benefit payments, in whole  
13 or in part, should not be charged to the experience rating accounts of  
14 employers except those employers described in RCW 50.44.010, 50.44.030,  
15 and 50.50.030 who have properly elected to make payments in lieu of  
16 contributions, taxable local government employers described in RCW  
17 50.44.035, and those employers who are required to make payments in  
18 lieu of contributions, as follows:

19 (a) Benefits paid to any individual later determined to be  
20 ineligible shall not be charged to the experience rating account of any  
21 contribution paying employer. However, when a benefit claim becomes  
22 invalid due to an amendment or adjustment of a report where the  
23 employer failed to report or inaccurately reported hours worked or  
24 remuneration paid, or both, all benefits paid will be charged to the  
25 experience rating account of the contribution paying employer or  
26 employers that originally filed the incomplete or inaccurate report or  
27 reports. An employer who reimburses the trust fund for benefits paid  
28 to workers and who fails to report or inaccurately reported hours  
29 worked or remuneration paid, or both, shall reimburse the trust fund  
30 for all benefits paid that are based on the originally filed incomplete  
31 or inaccurate report or reports.

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

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

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

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

5 (d) In the case of individuals who requalify for benefits under RCW  
6 50.20.050 or 50.20.060, benefits based on wage credits earned prior to  
7 the disqualifying separation shall not be charged to the experience  
8 rating account of the contribution paying employer from whom that  
9 separation took place.

10 (e) Benefits paid to an individual who qualifies for benefits under  
11 RCW 50.20.050(2)(b) (iv) or (xi), as applicable, shall not be charged  
12 to the experience rating account of any contribution paying employer.

13 (f) With respect to claims with an effective date on or after the  
14 first Sunday following April 22, 2005, benefits paid that exceed the  
15 benefits that would have been paid if the weekly benefit amount for the  
16 claim had been determined as one percent of the total wages paid in the  
17 individual's base year shall not be charged to the experience rating  
18 account of any contribution paying employer.

19 (g) The forty-five dollar increase paid as part of an individual's  
20 weekly benefit amount as provided in section 2 of this act shall not be  
21 charged to the experience rating account of any contribution paying  
22 employer.

23 (h) With respect to claims where the minimum amount payable weekly  
24 is increased to one hundred fifty-five dollars pursuant to section 2(3)  
25 of this act, benefits paid that exceed the benefits that would have  
26 been paid if the minimum amount payable weekly had been calculated  
27 pursuant to RCW 50.20.120 shall not be charged to the experience rating  
28 account of any contribution paying employer.

29 (i) Training benefits paid to an individual under section 4 of this  
30 act shall not be charged to the experience rating account of any  
31 contribution paying employer.

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

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

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

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

9 (iv) Continues to be employed on a regularly scheduled permanent  
10 part-time basis by a base year employer and who at some time during the  
11 base year was concurrently employed and subsequently separated from at  
12 least one other base year employer. Benefit charge relief ceases when  
13 the employment relationship between the employer requesting relief and  
14 the claimant is terminated. This subsection does not apply to shared  
15 work employers under chapter 50.06 RCW.

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

23 **Sec. 14.** RCW 50.29.025 and 2007 c 51 s 1 are each amended to read  
24 as follows:

25 (1) Except as provided in subsection (2) of this section, the  
26 contribution rate for each employer subject to contributions under RCW  
27 50.24.010 shall be determined under this subsection.

28 (a) A fund balance ratio shall be determined by dividing the  
29 balance in the unemployment compensation fund as of the September 30th  
30 immediately preceding the rate year by the total remuneration paid by  
31 all employers subject to contributions during the second calendar year  
32 preceding the rate year and reported to the department by the following  
33 March 31st. The division shall be carried to the fourth decimal place  
34 with the remaining fraction, if any, disregarded. The fund balance  
35 ratio shall be expressed as a percentage.

36 (b) The interval of the fund balance ratio, expressed as a  
37 percentage, shall determine which tax schedule in (e) of this

1 subsection shall be in effect for assigning tax rates for the rate  
2 year. The intervals for determining the effective tax schedule shall  
3 be:

4	Interval of the	
5	Fund Balance Ratio	Effective
6	Expressed as a Percentage	Tax Schedule
7	2.90 and above	AA
8	2.10 to 2.89	A
9	1.70 to 2.09	B
10	1.40 to 1.69	C
11	1.00 to 1.39	D
12	0.70 to 0.99	E
13	Less than 0.70	F

14 (c) An array shall be prepared, listing all qualified employers in  
15 ascending order of their benefit ratios. The array shall show for each  
16 qualified employer: (i) Identification number; (ii) benefit ratio;  
17 (iii) taxable payrolls for the four calendar quarters immediately  
18 preceding the computation date and reported to the department by the  
19 cut-off date; (iv) a cumulative total of taxable payrolls consisting of  
20 the employer's taxable payroll plus the taxable payrolls of all other  
21 employers preceding him or her in the array; and (v) the percentage  
22 equivalent of the cumulative total of taxable payrolls.

23 (d) Each employer in the array shall be assigned to one of twenty  
24 rate classes according to the percentage intervals of cumulative  
25 taxable payrolls set forth in (e) of this subsection: PROVIDED, That  
26 if an employer's taxable payroll falls within two or more rate classes,  
27 the employer and any other employer with the same benefit ratio shall  
28 be assigned to the lowest rate class which includes any portion of the  
29 employer's taxable payroll.

30 (e) Except as provided in RCW 50.29.026, the contribution rate for  
31 each employer in the array shall be the rate specified in the following  
32 tables for the rate class to which he or she has been assigned, as  
33 determined under (d) of this subsection, within the tax schedule which  
34 is to be in effect during the rate year:

	Percent of		Schedules of Contributions Rates								
	Cumulative		for Effective Tax Schedule								
	Taxable Payrolls		Rate								
	From	To Class	AA	A	B	C	D	E	F		
7	0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47	
8	5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67	
9	10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87	
10	15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98	
11	20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08	
12	25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18	
13	30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27	
14	35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47	
15	40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66	
16	45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86	
17	50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95	
18	55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15	
19	60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34	
20	65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54	
21	70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63	
22	75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73	
23	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97	
24	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17	
25	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37	
26	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40	

27 (f) The contribution rate for each employer not qualified to be in  
 28 the array shall be as follows:

29 (i) Employers who do not meet the definition of "qualified  
 30 employer" by reason of failure to pay contributions when due shall be  
 31 assigned a contribution rate two-tenths higher than that in rate class  
 32 20 for the applicable rate year, except employers who have an approved  
 33 agency-deferred payment contract by September 30 of the previous rate  
 34 year. If any employer with an approved agency-deferred payment  
 35 contract fails to make any one of the succeeding deferred payments or  
 36 fails to submit any succeeding tax report and payment in a timely  
 37 manner, the employer's tax rate shall immediately revert to a  
 38 contribution rate two-tenths higher than that in rate class 20 for the  
 39 applicable rate year; and



1 (ii) For all other employers not qualified to be in the array, the  
2 contribution rate shall be a rate equal to the average industry rate as  
3 determined by the commissioner; however, the rate may not be less than  
4 one percent.

5 (2) Beginning with contributions assessed for rate year 2005, the  
6 contribution rate for each employer subject to contributions under RCW  
7 50.24.010 shall be the sum of the array calculation factor rate and the  
8 graduated social cost factor rate determined under this subsection, and  
9 the solvency surcharge determined under RCW 50.29.041, if any.

10 (a) The array calculation factor rate shall be determined as  
11 follows:

12 (i) An array shall be prepared, listing all qualified employers in  
13 ascending order of their benefit ratios. The array shall show for each  
14 qualified employer: (A) Identification number; (B) benefit ratio; and  
15 (C) taxable payrolls for the four consecutive calendar quarters  
16 immediately preceding the computation date and reported to the  
17 employment security department by the cut-off date.

18 (ii) Each employer in the array shall be assigned to one of forty  
19 rate classes according to his or her benefit ratio as follows, and,  
20 except as provided in RCW 50.29.026, the array calculation factor rate  
21 for each employer in the array shall be the rate specified in the rate  
22 class to which the employer has been assigned:

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45

1	0.013750	0.015000	13	1.60
2	0.015000	0.016250	14	1.75
3	0.016250	0.017500	15	1.90
4	0.017500	0.018750	16	2.05
5	0.018750	0.020000	17	2.20
6	0.020000	0.021250	18	2.35
7	0.021250	0.022500	19	2.50
8	0.022500	0.023750	20	2.65
9	0.023750	0.025000	21	2.80
10	0.025000	0.026250	22	2.95
11	0.026250	0.027500	23	3.10
12	0.027500	0.028750	24	3.25
13	0.028750	0.030000	25	3.40
14	0.030000	0.031250	26	3.55
15	0.031250	0.032500	27	3.70
16	0.032500	0.033750	28	3.85
17	0.033750	0.035000	29	4.00
18	0.035000	0.036250	30	4.15
19	0.036250	0.037500	31	4.30
20	0.037500	0.040000	32	4.45
21	0.040000	0.042500	33	4.60
22	0.042500	0.045000	34	4.75
23	0.045000	0.047500	35	4.90
24	0.047500	0.050000	36	5.05
25	0.050000	0.052500	37	5.20
26	0.052500	0.055000	38	5.30
27	0.055000	0.057500	39	5.35
28	0.057500		40	5.40

29 (b) The graduated social cost factor rate shall be determined as  
30 follows:

31 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,  
32 the commissioner shall calculate the flat social cost factor for a rate  
33 year by dividing the total social cost by the total taxable payroll.  
34 The division shall be carried to the second decimal place with the  
35 remaining fraction disregarded unless it amounts to five hundredths or  
36 more, in which case the second decimal place shall be rounded to the

1 next higher digit. The flat social cost factor shall be expressed as  
2 a percentage.

3 (B) If, on the cut-off date, the balance in the unemployment  
4 compensation fund is determined by the commissioner to be an amount  
5 that will provide more than ten months of unemployment benefits, the  
6 commissioner shall calculate the flat social cost factor for the rate  
7 year immediately following the cut-off date by reducing the total  
8 social cost by the dollar amount that represents the number of months  
9 for which the balance in the unemployment compensation fund on the cut-  
10 off date will provide benefits above ten months and dividing the result  
11 by the total taxable payroll. However, the calculation under this  
12 subsection (2)(b)(i)(B) for a rate year may not result in a flat social  
13 cost factor that is more than four-tenths lower than the calculation  
14 under (b)(i)(A) of this subsection for that rate year.

15 For the purposes of this subsection, the commissioner shall  
16 determine the number of months of unemployment benefits in the  
17 unemployment compensation fund using the benefit cost rate for the  
18 average of the three highest calendar benefit cost rates in the twenty  
19 consecutive completed calendar years immediately preceding the cut-off  
20 date or a period of consecutive calendar years immediately preceding  
21 the cut-off date that includes three recessions, if longer.

22 (C) The minimum flat social cost factor calculated under this  
23 subsection (2)(b) shall be six-tenths of one percent, except that if  
24 the balance in the unemployment compensation fund is determined by the  
25 commissioner to be an amount that will provide:

26 (I) At least twelve months but less than fourteen months of  
27 unemployment benefits, the minimum shall be five-tenths of one percent;  
28 or

29 (II) At least fourteen months of unemployment benefits, the minimum  
30 shall be five-tenths of one percent, except that, for employers in rate  
31 class 1, the minimum shall be forty-five hundredths of one percent.

32 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the  
33 graduated social cost factor rate for each employer in the array is the  
34 flat social cost factor multiplied by the percentage specified as  
35 follows for the rate class to which the employer has been assigned in  
36 (a)(ii) of this subsection, except that the sum of an employer's array  
37 calculation factor rate and the graduated social cost factor rate may  
38 not exceed six and five-tenths percent or, for employers whose North

1 American industry classification system code is within "111," "112,"  
2 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six  
3 percent through rate year 2007 and may not exceed five and seven-tenths  
4 percent for rate year 2008 and thereafter:

- 5 (I) Rate class 1 - 78 percent;
- 6 (II) Rate class 2 - 82 percent;
- 7 (III) Rate class 3 - 86 percent;
- 8 (IV) Rate class 4 - 90 percent;
- 9 (V) Rate class 5 - 94 percent;
- 10 (VI) Rate class 6 - 98 percent;
- 11 (VII) Rate class 7 - 102 percent;
- 12 (VIII) Rate class 8 - 106 percent;
- 13 (IX) Rate class 9 - 110 percent;
- 14 (X) Rate class 10 - 114 percent;
- 15 (XI) Rate class 11 - 118 percent; and
- 16 (XII) Rate classes 12 through 40 - 120 percent.

17 (B) For contributions assessed beginning July 1, 2005, through  
18 December 31, 2007, for employers whose North American industry  
19 classification system code is "111," "112," "1141," "115," "3114,"  
20 "3117," "42448," or "49312," the graduated social cost factor rate is  
21 zero.

22 (iii) For the purposes of this section:

23 (A) "Total social cost" means the amount calculated by subtracting  
24 the array calculation factor contributions paid by all employers with  
25 respect to the four consecutive calendar quarters immediately preceding  
26 the computation date and paid to the employment security department by  
27 the cut-off date from the total unemployment benefits paid to claimants  
28 in the same four consecutive calendar quarters. To calculate the flat  
29 social cost factor for rate year 2005, the commissioner shall calculate  
30 the total social cost using the array calculation factor contributions  
31 that would have been required to be paid by all employers in the  
32 calculation period if (a) of this subsection had been in effect for the  
33 relevant period. To calculate the flat social cost factor for rate  
34 years 2010 and 2011, the forty-five dollar increase paid as part of an  
35 individual's weekly benefit amount as provided in section 2 of this act  
36 shall not be considered for purposes of calculating the total  
37 unemployment benefits paid to claimants in the four consecutive  
38 calendar quarters immediately preceding the computation date.

1 (B) "Total taxable payroll" means the total amount of wages subject  
2 to tax, as determined under RCW 50.24.010, for all employers in the  
3 four consecutive calendar quarters immediately preceding the  
4 computation date and reported to the employment security department by  
5 the cut-off date.

6 (c) For employers who do not meet the definition of "qualified  
7 employer" by reason of failure to pay contributions when due:

8 (i) The array calculation factor rate shall be two-tenths higher  
9 than that in rate class 40, except employers who have an approved  
10 agency-deferred payment contract by September 30th of the previous rate  
11 year. If any employer with an approved agency-deferred payment  
12 contract fails to make any one of the succeeding deferred payments or  
13 fails to submit any succeeding tax report and payment in a timely  
14 manner, the employer's tax rate shall immediately revert to an array  
15 calculation factor rate two-tenths higher than that in rate class 40;  
16 and

17 (ii) The social cost factor rate shall be the social cost factor  
18 rate assigned to rate class 40 under (b)(ii) of this subsection.

19 (d) For all other employers not qualified to be in the array:

20 (i) For rate years 2005, 2006, and 2007:

21 (A) The array calculation factor rate shall be a rate equal to the  
22 average industry array calculation factor rate as determined by the  
23 commissioner, plus fifteen percent of that amount; however, the rate  
24 may not be less than one percent or more than the array calculation  
25 factor rate in rate class 40; and

26 (B) The social cost factor rate shall be a rate equal to the  
27 average industry social cost factor rate as determined by the  
28 commissioner, plus fifteen percent of that amount, but not more than  
29 the social cost factor rate assigned to rate class 40 under (b)(ii) of  
30 this subsection.

31 (ii) Beginning with contributions assessed for rate year 2008:

32 (A) The array calculation factor rate shall be a rate equal to the  
33 average industry array calculation factor rate as determined by the  
34 commissioner, multiplied by the history factor, but not less than one  
35 percent or more than the array calculation factor rate in rate class  
36 40;

37 (B) The social cost factor rate shall be a rate equal to the  
38 average industry social cost factor rate as determined by the

1 commissioner, multiplied by the history factor, but not more than the  
2 social cost factor rate assigned to rate class 40 under (b)(ii) of this  
3 subsection; and

4 (C) The history factor shall be based on the total amounts of  
5 benefits charged and contributions paid in the three fiscal years  
6 ending prior to the computation date by employers not qualified to be  
7 in the array, other than employers in (c) of this subsection, who were  
8 first subject to contributions in the calendar year ending three years  
9 prior to the computation date. The commissioner shall calculate the  
10 history ratio by dividing the total amount of benefits charged by the  
11 total amount of contributions paid in this three-year period by these  
12 employers. The division shall be carried to the second decimal place  
13 with the remaining fraction disregarded unless it amounts to five  
14 one-hundredths or more, in which case the second decimal place shall be  
15 rounded to the next higher digit. The commissioner shall determine the  
16 history factor according to the history ratio as follows:

	History		History
	Ratio		Factor
			(percent)
	At least	Less than	
21	(I)	.95	90
22	(II)	.95	100
23	(III)	1.05	115

24 (3) Assignment of employers by the commissioner to industrial  
25 classification, for purposes of this section, shall be in accordance  
26 with established classification practices found in the (~~"Standard  
27 Industrial Classification Manual" issued by the federal office of  
28 management and budget to the third digit provided in the standard  
29 industrial classification code, or in the~~) North American industry  
30 classification system code.

31 **PART V - MISCELLANEOUS**

32 NEW SECTION. **Sec. 15.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the  
2 state government and its existing public institutions, and takes effect  
3 April 5, 2009.

4 NEW SECTION. **Sec. 16.** If any part of this act is found to be in  
5 conflict with federal requirements that are a prescribed condition to  
6 the allocation of federal funds to the state or the eligibility of  
7 employers in this state for federal unemployment tax credits, the  
8 conflicting part of this act is inoperative solely to the extent of the  
9 conflict, and the finding or determination does not affect the  
10 operation of the remainder of this act. Rules adopted under this act  
11 must meet federal requirements that are a necessary condition to the  
12 receipt of federal funds by the state or the granting of federal  
13 unemployment tax credits to employers in this state.

14 NEW SECTION. **Sec. 17.** If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 18.** Part headings used in this act are not any  
19 part of the law.

Passed by the House February 13, 2009.

Passed by the Senate February 12, 2009.

Approved by the Governor February 16, 2009.

Filed in Office of Secretary of State February 17, 2009.