
SENATE BILL 5425

State of Washington

67th Legislature

2021 Regular Session

By Senators Stanford, Das, Hasegawa, Keiser, Kuderer, Nguyen, and Saldaña; by request of Employment Security Department

Read first time 02/04/21. Referred to Committee on Labor, Commerce & Tribal Affairs.

1 AN ACT Relating to extended benefits in the unemployment
2 insurance system; amending RCW 50.22.010; reenacting and amending RCW
3 50.22.020; adding a new section to chapter 50.22 RCW; creating a new
4 section; and declaring an emergency.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.22
7 RCW to read as follows:

8 (1) Beginning December 27, 2020, through April 12, 2021, or such
9 subsequent date as may be provided by the employment security
10 department by rule, an individual's eligibility period under RCW
11 50.22.010(8)(a) shall also include any week that begins in an
12 extended benefit period that is in effect in this state and after the
13 individual exhausted all rights to pandemic emergency unemployment
14 compensation, as established in the CARES act (P.L. 116-136), as
15 amended.

16 (2) With respect to determining whether the state is in an
17 extended benefit period beginning November 1, 2020, through December
18 31, 2021, or such subsequent date as may be provided by the
19 employment security department by rule, the state shall disregard the
20 requirement in RCW 50.22.010(1)(b) that no extended benefit period

1 may begin before the fourteenth week following the end of a prior
2 extended benefit period which was in effect.

3 **Sec. 2.** RCW 50.22.010 and 2013 c 23 s 103 are each amended to
4 read as follows:

5 As used in this chapter, unless the context clearly indicates
6 otherwise:

7 (1) "Extended benefit period" means a period which:

8 (a) Begins with the third week after a week for which there is an
9 "on" indicator; and

10 (b) (~~Ends~~) Except as provided in section 1 of this act, ends
11 with the third week after the first week for which there is an "off"
12 indicator: PROVIDED, That no extended benefit period shall last for a
13 period of less than thirteen consecutive weeks, and further that no
14 extended benefit period may begin by reason of an "on" indicator
15 before the fourteenth week after the close of a prior extended
16 benefit period which was in effect with respect to this state.

17 (2)(a) There is an "on" indicator for this state for a week if
18 the commissioner determines, in accordance with the regulations of
19 the United States secretary of labor, that for the period consisting
20 of such week and the immediately preceding twelve weeks:

21 (i) The rate of insured unemployment, not seasonally adjusted,
22 equaled or exceeded one hundred twenty percent of the average of such
23 rates for the corresponding thirteen-week period ending in each of
24 the preceding two calendar years and equaled or exceeded five
25 percent; or

26 (ii) For benefits for weeks of unemployment beginning after March
27 6, 1993:

28 (A) The average rate of total unemployment, seasonally adjusted,
29 as determined by the United States secretary of labor, for the period
30 consisting of the most recent three months for which data for all
31 states are published before the close of the week equals or exceeds
32 six and one-half percent; and

33 (B) The average rate of total unemployment in the state,
34 seasonally adjusted, as determined by the United States secretary of
35 labor, for the three-month period referred to in (a)(ii)(A) of this
36 subsection, equals or exceeds one hundred ten percent of the average
37 for either or both of the corresponding three-month periods ending in
38 the two preceding calendar years.

1 (b) This subsection applies as provided under the tax relief,
2 unemployment insurance reauthorization, and job creation act of 2010
3 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent
4 date as may be provided by the department by rule, consistent with
5 the purposes of this subsection:

6 (i) The average rate of insured unemployment, not seasonally
7 adjusted, equaled or exceeded one hundred twenty percent of the
8 average of such rates for the corresponding thirteen-week period
9 ending in all of the preceding three calendar years and equaled or
10 exceeded five percent; or

11 (ii) The average rate of total unemployment, seasonally adjusted,
12 as determined by the United States secretary of labor, for the period
13 consisting of the most recent three months for which data for all
14 states are published before the close of the week equals or exceeds
15 six and one-half percent; and

16 (iii) The average rate of total unemployment in the state,
17 seasonally adjusted, as determined by the United States secretary of
18 labor, for the three-month period referred to in (b)(ii) of this
19 subsection, equals or exceeds one hundred ten percent of the average
20 for any of the corresponding three-month periods ending in the three
21 preceding calendar years.

22 (3) (a) "High unemployment period" means any period of
23 unemployment beginning after March 6, 1993, during which an extended
24 benefit period would be in effect if:

25 (i) The average rate of total unemployment, seasonally adjusted,
26 as determined by the United States secretary of labor, for the period
27 consisting of the most recent three months for which data for all
28 states are published before the close of the week equals or exceeds
29 eight percent; and

30 (ii) The average rate of total unemployment in the state,
31 seasonally adjusted, as determined by the United States secretary of
32 labor, for the three-month period referred to in (a)(i) of this
33 subsection, equals or exceeds one hundred ten percent of the average
34 for either or both of the corresponding three-month periods ending in
35 the two preceding calendar years.

36 (b) This subsection applies as provided under the tax relief,
37 unemployment insurance reauthorization, and job creation act of 2010
38 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent
39 date as may be provided by the department by rule, consistent with
40 the purposes of this subsection:

1 (i) The average rate of total unemployment, seasonally adjusted,
2 as determined by the United States secretary of labor, for the period
3 consisting of the most recent three months for which data for all
4 states are published before the close of the week equals or exceeds
5 eight percent; and

6 (ii) The average rate of total unemployment in the state,
7 seasonally adjusted, as determined by the United States secretary of
8 labor, for the three-month period referred to in (a)(i) of this
9 subsection, equals or exceeds one hundred ten percent of the average
10 for any of the corresponding three-month periods ending in the three
11 preceding calendar years.

12 (4) There is an "off" indicator for this state for a week only
13 if, for the period consisting of such week and immediately preceding
14 twelve weeks, none of the options specified in subsection (2) or (3)
15 of this section result in an "on" indicator.

16 (5) "Regular benefits" means benefits payable to an individual
17 under this title or under any state law (including benefits payable
18 to federal civilian employees and to ex-servicemen or ex-servicewomen
19 pursuant to 5 U.S.C. chapter 85) other than extended benefits or
20 additional benefits.

21 (6) "Extended benefits" means benefits payable for weeks of
22 unemployment beginning in an extended benefit period to an individual
23 under this title or under any state law (including benefits payable
24 to federal civilian employees and to ex-servicemen or ex-servicewomen
25 pursuant to 5 U.S.C. chapter 85) other than regular or additional
26 benefits.

27 (7) "Additional benefits" are benefits totally financed by the
28 state and payable under this title to exhaustees by reason of
29 conditions of high unemployment or by reason of other special
30 factors.

31 (8) "Eligibility period" of an individual means:

32 (a) (~~The~~) Except as provided in section 1 of this act, the
33 period consisting of the weeks in his or her benefit year which begin
34 in an extended benefit period that is in effect in this state and, if
35 his or her benefit year ends within such extended benefit period, any
36 weeks thereafter which begin in such period; or

37 (b) For an individual who is eligible for emergency unemployment
38 compensation during the extended benefit period beginning February
39 15, 2009, the period consisting of the week ending February 28, 2009,
40 and applies as provided under the tax relief, unemployment insurance

1 reauthorization, and job creation act of 2010 (P.L. 111-312) as it
2 existed on December 17, 2010, or such subsequent date as may be
3 provided by the department by rule, consistent with the purposes of
4 this subsection.

5 (9) "Additional benefit eligibility period" of an individual
6 means the period consisting of the weeks in his or her benefit year
7 which begin in an additional benefit period that is in effect and, if
8 his or her benefit year ends within such additional benefit period,
9 any weeks thereafter which begin in such period.

10 (10) "Exhaustee" means an individual who, with respect to any
11 week of unemployment in his or her eligibility period:

12 (a) Has received, prior to such week, all of the regular benefits
13 that were payable to him or her under this title or any other state
14 law (including dependents' allowances and regular benefits payable to
15 federal civilian employees and ex-servicemen or ex-servicewomen under
16 5 U.S.C. chapter 85) in his or her current benefit year that includes
17 such week; or

18 (b) Has received, prior to such week, all of the regular benefits
19 that were available to him or her under this title or any other state
20 law (including dependents' allowances and regular benefits available
21 to federal civilian employees and ex-servicemen or ex-servicewomen
22 under 5 U.S.C. chapter 85) in his or her current benefit year that
23 includes such week, after the cancellation of some or all of his or
24 her wage credits or the total or partial reduction of his or her
25 rights to regular benefits: PROVIDED, That, for the purposes of (a)
26 and (b) of this subsection, an individual shall be deemed to have
27 received in his or her current benefit year all of the regular
28 benefits that were payable to him or her, or available to him or her,
29 as the case may be, even though:

30 (i) As a result of a pending appeal with respect to wages or
31 employment, or both, that were not included in the original monetary
32 determination with respect to his or her current benefit year, he or
33 she may subsequently be determined to be entitled to more regular
34 benefits; or

35 (ii) By reason of the seasonal provisions of another state law,
36 he or she is not entitled to regular benefits with respect to such
37 week of unemployment (although he or she may be entitled to regular
38 benefits with respect to future weeks of unemployment in the next
39 season, as the case may be, in his or her current benefit year), and
40 he or she is otherwise an exhaustee within the meaning of this

1 section with respect to his or her right to regular benefits under
2 such state law seasonal provisions during the season or off season in
3 which that week of unemployment occurs; or

4 (iii) Having established a benefit year, no regular benefits are
5 payable to him or her during such year because his or her wage
6 credits were canceled or his or her right to regular benefits was
7 totally reduced as the result of the application of a
8 disqualification; or

9 (c) His or her benefit year having ended prior to such week, he
10 or she has insufficient wages or employment, or both, on the basis of
11 which he or she could establish in any state a new benefit year that
12 would include such week, or having established a new benefit year
13 that includes such week, he or she is precluded from receiving
14 regular benefits by reason of the provision in RCW 50.04.030 which
15 meets the requirement of section 3304(a)(7) of the federal
16 unemployment tax act, or the similar provision in any other state
17 law; and

18 (d)(i) Has no right for such week to unemployment benefits or
19 allowances, as the case may be, under the railroad unemployment
20 insurance act, the trade expansion act of 1962, and such other
21 federal laws as are specified in regulations issued by the United
22 States secretary of labor; and

23 (ii) Has not received and is not seeking for such week
24 unemployment benefits under the unemployment compensation law of
25 Canada, unless the appropriate agency finally determines that he or
26 she is not entitled to unemployment benefits under such law for such
27 week.

28 (11) "State law" means the unemployment insurance law of any
29 state, approved by the United States secretary of labor under section
30 3304 of the internal revenue code of 1954.

31 **Sec. 3.** RCW 50.22.020 and 1993 c 483 s 16 and 1993 c 58 s 3 are
32 each reenacted and amended to read as follows:

33 When the result would not be inconsistent with the other
34 provisions of this chapter, the provisions of this title and
35 commissioner's regulations enacted pursuant thereto, which apply to
36 claims for, or the payment of, regular benefits, shall apply to
37 claims for, and the payment of, extended benefits: PROVIDED, That

1 (1) Payment of extended compensation under this chapter shall not
2 be made to any individual for any week of unemployment in his or her
3 eligibility period—

4 (a) During which he or she fails to accept any offer of suitable
5 work (as defined in subsection (3) of this section) or fails to apply
6 for any suitable work to which he or she was referred by the
7 employment security department; or

8 (b) During which he or she fails to actively engage in seeking
9 work.

10 (2) If any individual is ineligible for extended compensation for
11 any week by reason of a failure described in subsections (1)(a) or
12 (1)(b) of this section, the individual shall be ineligible to receive
13 extended compensation for any week which begins during a period which
14 —

15 (a) Begins with the week following the week in which such failure
16 occurs; and

17 (b) Does not end until such individual has been employed during
18 at least four weeks which begin after such failure and the total of
19 the remuneration earned by the individual for being so employed is
20 not less than the product of four multiplied by the individual's
21 weekly benefit amount (as determined under RCW 50.20.120) for his or
22 her benefit year.

23 (3) For purposes of this section, the term "suitable work" means,
24 with respect to any individual, any work which is within such
25 individual's capabilities and which does not involve conditions
26 described in RCW 50.20.110: PROVIDED, That if the individual
27 furnishes evidence satisfactory to the employment security department
28 that such individual's prospects for obtaining work in his or her
29 customary occupation within a reasonably short period are good, the
30 determination of whether any work is suitable work with respect to
31 such individual shall be made in accordance with RCW 50.20.100.

32 (4) Extended compensation shall not be denied under subsection
33 (1)(a) of this section to any individual for any week by reason of a
34 failure to accept an offer of, or apply for, suitable work if:

35 (a) The gross average weekly remuneration payable to such
36 individual for the position does not exceed the sum of—

37 (i) The individual's weekly benefit amount (as determined under
38 RCW 50.20.120) for his or her benefit year; plus

39 (ii) The amount (if any) of supplemental unemployment
40 compensation benefits (as defined in section 501(c)(17)(D) of the

1 Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable
2 to such individual for such week;

3 (b) The position was not offered to such individual in writing
4 (~~and~~) or was not listed with the employment security department;

5 (c) Such failure would not result in a denial of compensation
6 under the provisions of RCW 50.20.080 and 50.20.100 to the extent
7 such provisions are not inconsistent with the provisions of
8 subsections (3) and (5) of this section; or

9 (d) The position pays wages less than the higher of—

10 (i) The minimum wage provided by section (6)(a)(1) of the Fair
11 Labor Standards Act of 1938, without regard to any exemption; or

12 (ii) Any applicable state or local minimum wage.

13 (5) For purposes of this section, an individual shall be treated
14 as actively engaged in seeking work during any week if:

15 (a) The individual has engaged in a systematic and sustained
16 effort to obtain work during such week; and

17 (b) The individual provides tangible evidence to the employment
18 security department that he or she has engaged in such an effort
19 during such week.

20 (6) The employment security department shall refer applicants for
21 benefits under this chapter to any suitable work to which subsections
22 (4)(a) through (4)(d) of this section would not apply.

23 (7) No provisions of this title which terminates a
24 disqualification for voluntarily leaving employment, being discharged
25 for misconduct, or refusing suitable employment shall apply for
26 purposes of determining eligibility for extended compensation unless
27 such termination is based upon employment subsequent to the date of
28 such disqualification.

29 (8) The provisions of subsections (1) through (7) of this section
30 shall apply with respect to weeks of unemployment beginning after
31 March 31, 1981: PROVIDED HOWEVER, That the provisions of subsections
32 (1) through (7) of this section shall not apply to those weeks of
33 unemployment beginning after March 6, 1993, and before January 1,
34 1995.

35 NEW SECTION. **Sec. 4.** Section 1 of this act is remedial and
36 curative in nature and applies retroactively and prospectively to the
37 dates listed in that section.

1 NEW SECTION. **Sec. 5.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and takes
4 effect immediately.

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