
HOUSE BILL 2441

State of Washington 52nd Legislature 1992 Regular Session

By Representatives Jones, Heavey, Franklin, Prentice, G. Cole and R. King

Read first time 01/16/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the economic adjustment and assistance act;
2 adding a new chapter to Title 49 RCW; and declaring an emergency.

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

4 NEW SECTION. **Sec. 1.** Unless the context clearly requires
5 otherwise, the definitions in this section apply throughout this
6 chapter.

7 (1) "Affected employee" means an employee who may reasonably be
8 expected to experience or who has experienced an employment loss as a
9 consequence of a business closure or employee layoff by his or her
10 employer whether or not the employee is or was employed at the single
11 site of employment being closed or at which layoffs are occurring.

12 (2) "Business closure" means the permanent or temporary shutdown of
13 a single site of employment, or one or more facilities or operating
14 units within a single site of employment, if the shutdown results in an

1 employment loss at the single site of employment during any thirty-day
2 period of twenty-five or more employees, excluding part-time employees.

3 (3) "Employer" means any person, firm, corporation, partnership,
4 business trust, legal representative, or other business entity which
5 engages in any business, industry, profession, or activity in this
6 state and employs: (a) Fifty or more employees, excluding part-time
7 employees; or (b) fifty or more employees who in the aggregate work at
8 least two thousand hours per week, exclusive of hours of overtime.

9 (4) "Employment loss" means: (a) An employment termination, other
10 than a discharge for cause, voluntary departure, or retirement; (b) a
11 layoff exceeding six months; or (c) a reduction in hours of work of
12 more than fifty percent during each month of any six-month period.

13 (5) "Employee layoff" means a reduction in work force that is not
14 the result of a business closure and that results in an employment loss
15 at the single site of employment during any thirty-day period for (a)
16 at least thirty-three percent of the employees, excluding any part-time
17 employees, and at least twenty-five employees, excluding any part-time
18 employees; or (b) at least five hundred employees, excluding any part-
19 time employees. Layoffs of two or more groups of employees at a single
20 site of employment within any ninety-day period, any one of which is
21 below the limits stated in (a) or (b) of this subsection, shall be
22 aggregated and shall constitute an employment layoff under this section
23 if the aggregate is above the limit of (a) or (b) of this subsection,
24 unless the employer can show by a preponderance of the evidence that
25 each individual layoff resulted from separate and distinct causes.

26 (6) "Labor-management committee" means a committee voluntarily
27 formed pursuant to section 5 of this act to respond to actual or
28 prospective employee dislocations and that is the primary means to
29 oversee delivery of state and local resources to affected employees.

1 (7) "Part-time employee" means an employee who is employed for an
2 average of fewer than twenty hours per week or who has been employed
3 for fewer than six of the twelve months preceding the date on which
4 notice under section 2 of this act is required.

5 NEW SECTION. **Sec. 2.** (1) No employer shall order a business
6 closure or employee layoff until the end of a sixty-day period after
7 the employer serves written notice of the order to the representative
8 of the affected employees or, if none, to the affected employees, to
9 the dislocated worker unit in the employment security department, and
10 to the chief elected official of the unit of local government within
11 which jurisdiction the closing or layoff is to occur.

12 (2) If all or part of a business is sold, the seller of the
13 business is responsible for giving the notice required by this section
14 for any business closure or employee layoff occurring on or before the
15 effective date of the sale, and the buyer is responsible for giving the
16 notice for any closure or layoff occurring after the effective date of
17 the sale.

18 (3) An employer that orders a business closure or employee layoff
19 in violation of this section is liable to each affected employee in the
20 amount of a day's wages and benefits for each day of violation. Wages
21 and benefits shall be computed as the higher of: (a) An average of the
22 regular rate of compensation received by the employee over the
23 preceding three years or over the entire period of employment,
24 whichever is the shorter period; or (b) the final regular rate of
25 compensation received by the employee.

26 (4) A person aggrieved by a violation of this chapter, including
27 the organization representing affected employees for collective
28 bargaining or the affected local government, may bring suit on his or
29 her own behalf or on behalf of other persons similarly situated, or

1 both, in the superior court of the county in which the violation
2 occurred or in which the employer transacts business.

3 (5) Upon request, an affected employee, or the organization
4 representing an affected employee for collective bargaining, is
5 entitled to information from his or her employer about business
6 closures or the number of employee layoffs ordered by the employer
7 within ninety days of the closure or layoff that affected the employee
8 making the request for information.

9 NEW SECTION. **Sec. 3.** (1) No notice under this chapter is
10 required if the business closure or employee layoff results from a
11 natural disaster, including but not limited to flood, fire, drought, or
12 earthquake.

13 (2) Before the conclusion of the sixty-day notice period specified
14 in section 2 of this act, an employer may order:

15 (a) The shutdown of a single site of employment if, as of the time
16 that the notice would have been required, the employer was actively
17 seeking capital or business which, if obtained, would have enabled the
18 employer to avoid or postpone the shutdown and the employer reasonably
19 and in good faith believed that giving the notice required would have
20 precluded the employer from obtaining the needed capital or business.

21 (b) A business closure or employee layoff if the closing or layoff
22 is caused by business circumstances that a reasonable employer would
23 not have foreseen based on information that the employer knew or should
24 have known on or after the date when the notice would have been
25 required.

26 NEW SECTION. **Sec. 4.** If a collective bargaining agreement
27 covering a site of employment that is subject to a business closure or
28 employee layoff requires greater employee protection than is required

1 by this chapter, the protections of the collective bargaining agreement
2 shall not be reduced or impaired by this chapter.

3 NEW SECTION. **Sec. 5.** (1) Promotion of labor-management
4 committees with full authority to obtain and oversee the services
5 needed to meet the needs of dislocated workers shall be the primary
6 mechanism of the state dislocated worker unit's response to business
7 closure and employee layoffs. The state dislocated worker unit shall
8 report to the appropriate committees of the legislature on the number
9 of closure or employee layoff notices received, the number of labor-
10 management committees established, and the number of dislocated workers
11 served by labor-management committees.

12 (2) Labor-management committees shall ordinarily include, but are
13 not limited to, the following:

14 (a) Shared and equal participation by employees and the employer;

15 (b) Shared financial participation between the company and the
16 state, using funds provided under federal law for this purpose, in
17 paying for the operating expenses of the committee;

18 (c) A committee chair to provide oversight, advice, and guidance to
19 the committee, who is jointly selected by the employee and employer
20 committee members, who is not employed by or under contract with the
21 employees or employer at the site, and who shall prepare a report on
22 the committee's activities;

23 (d) The ability to respond flexibly to the needs of affected
24 employees by devising and implementing a strategy for assessing the
25 employment and training needs for each dislocated worker, and for
26 obtaining and overseeing the services and assistance necessary to meet
27 those needs;

1 (e) A formal agreement, terminable at will by the employees or
2 their employer, and terminable for cause by the governor of the state
3 of Washington; and

4 (f) Local job identification activities by the chair and members of
5 the committee on behalf of the affected employees.

6 (3) The dislocated worker unit of the employment security
7 department shall promote the formation of labor-management committees
8 by providing:

9 (a) Immediate assistance in the establishment of the labor-
10 management committee, including providing immediate financial
11 assistance to cover the start-up costs of the committee and committee
12 effectiveness training using funds provided under federal law for this
13 purpose;

14 (b) A list of individuals from which the chair of the committee may
15 be selected;

16 (c) Technical advice as well as information on sources of
17 assistance, and liaison, with other public and private services and
18 programs; and

19 (d) Assistance in the selection of employee representatives if the
20 employees are not represented by a labor organization for collective
21 bargaining.

22 NEW SECTION. **Sec. 6.** This act may be known and cited as the
23 economic adjustment and assistance act.

24 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
25 constitute a new chapter in Title 49 RCW.

26 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the

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