
ENGROSSED SUBSTITUTE SENATE BILL 5193

State of Washington

67th Legislature

2021 Regular Session

By Senate Labor, Commerce & Tribal Affairs (originally sponsored by Senators Conway, Keiser, Hasegawa, and Wilson, C.)

READ FIRST TIME 02/11/21.

1 AN ACT Relating to unemployment insurance systems enhancements,
2 including creating a reserve force of unemployment claim
3 adjudicators, effective and equitable claims processing, and
4 transparent performance metrics; adding new sections to chapter 50.12
5 RCW; creating new sections; and providing an expiration date.

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

7 NEW SECTION. **Sec. 1.** The legislature finds with roughly
8 \$4,700,000,000 in the state unemployment insurance trust fund,
9 Washington entered the COVID-19 pandemic with one of the strongest
10 and best-funded trust funds in the nation. During an unprecedented
11 time, the state's unemployment insurance trust fund provided critical
12 economic support to Washington workers and businesses through
13 unemployment benefits and helped bolster the state's economy.

14 The legislature recognizes that the employment security
15 department maintains a recession readiness team that prepares the
16 agency to respond to economic changes, helping employers and
17 employees plan for the future. Based on experience with past
18 recessions, the employment security department's readiness team
19 prepared contingency plans for a possible economic crisis. During the
20 great recession, there were approximately 61,000 continued
21 unemployment insurance claims in September 2008, rising to a high of

1 approximately 173,000 claims in January of 2010, a period of 16
2 months. During the first three months of COVID-19, unemployment
3 insurance claims were more than double those filed during the great
4 recession, a time period that was seven times longer. From February
5 2020 to April 2020, unemployment insurance claims went from
6 approximately 62,000 to approximately 447,000 claims. The sudden
7 magnitude of claimants overwhelmed the system; contributing to
8 Washingtonians waiting months for their earned benefits and facing
9 deep economic insecurity.

10 The legislature finds that, despite conscientious economic
11 emergency planning by the employment security department, claims
12 processing issues are central problems encumbering the employment
13 security department's ability to timely meet a suddenly increased
14 demand for benefits. Immediate additional measures to facilitate
15 rapid and equitable provision of unemployment benefits now, and
16 enhanced preparation to do so in future economic downturns or
17 emergencies, are critically important.

18 The legislature further finds that a federal retroactive funding
19 model that looks back instead of preparing for potential economic
20 shocks ahead was a major contributing factor to the challenges faced
21 by all states during the COVID-19 pandemic in quickly paying benefits
22 to unemployed workers. Our employment security department cannot
23 quickly scale up for increased workloads and new programs if its
24 administrative funding is based on funding that looks backward
25 instead of forward.

26 Amid an unprecedented need for benefits and stresses on our
27 unemployment insurance program, the legislature intends to create a
28 pool of qualified unemployment insurance claim adjudicators, reduce
29 claimants' need for assistance, assure transparency of claims
30 processing performance measures, and make other system enhancements.
31 Together, these systems enhancements will ensure quicker claim
32 resolution and benefit payment; thus providing critical economic
33 support during future unemployment crises.

34 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.12
35 RCW to read as follows:

36 (1) The employment security department must create a training
37 program to prepare a reserve force of skilled unemployment insurance
38 claim adjudicators who can be available quickly when claims volume
39 demands.

1 (2) The program must:

2 (a) Be open to both state and other public employees and private
3 citizens;

4 (b) Be of sufficient quality that persons completing the training
5 and any required continuing education would be ready to work as an
6 unemployment insurance claim adjudicator within one week of
7 commencing employment with the employment security department; and

8 (c) Provide a certification of completion to participants who
9 complete the program.

10 (3) The office of financial management must collaborate with the
11 employment security department to assist the department in
12 identifying agencies with current state employees who meet the
13 minimum qualifications for unemployment insurance claims'
14 adjudicator. Employees at other agencies, who meet the minimum
15 qualifications of the unemployment insurance claims' adjudicator
16 classification, may, upon approval of their agency, attend required
17 training provided by the department. In designated times of high
18 unemployment claims, current state employees who have completed
19 required training and who are otherwise qualified may be selected to
20 assist the department in processing unemployment insurance claims or
21 related activities. The office of financial management may adopt
22 rules or issue guidance to assist in the implementation of this
23 provision.

24 (4) By October 1, 2021, and each year thereafter, the employment
25 security department must provide a report to the house of
26 representatives committee on labor and workplace standards and the
27 senate committee on labor, commerce, and tribal affairs, or successor
28 committees, on the number of persons with current certifications
29 under subsection (2)(c) of this section, the number of people
30 employed by the department and over what period of time, and the
31 adjudicator training and hiring costs.

32 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.12
33 RCW to read as follows:

34 (1) The department must designate department employees to assure
35 that letters, alerts, and notices produced manually or by the
36 department's unemployment insurance technology system are written in
37 plainly understood language and tested on claimants before they are
38 approved for use. Criteria for approval must include
39 comprehensibility, clarity, and readability. If the messaging of any

1 letter, alert, or notice falls short of those criteria, manual
2 methods of producing a comprehensible version shall be considered
3 while the department waits for their unemployment insurance
4 technology system to incorporate required modifications.

5 (2) Determinations and redeterminations must clearly convey
6 applicable statute numbers, a brief explanation of pertinent law,
7 outline of relevant facts, reasoning, decision, and result.

8 (3) The department will work with an unemployment insurance
9 advisory committee comprised of business and worker advocates to
10 explore:

11 (a) Establishing thresholds that will trigger automatic
12 adjustments in department staffing assignments and phone agent
13 staffing levels;

14 (b) Establishing a pilot to provide a caseworker approach to the
15 claims of a group of claimants with that casework carrying over to
16 reemployment services;

17 (c) Increasing language access, including by providing
18 translation of notices sent to claimants as part of their
19 unemployment insurance claims; and

20 (d) Frequency of the initial and continuing training to meet the
21 needs of section 2 of this act.

22 (4) Dedicated toll-free phone lines must be established for
23 claimants who lack computer skills or access to computers, claimants
24 with disabilities, and claimants with limited English proficiency.

25 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.12
26 RCW to read as follows:

27 When the average rate of total unemployment in the state,
28 seasonally adjusted, as determined by the United States secretary of
29 labor, for the period consisting of the most recent three months for
30 which data for all states are published before the close of the week
31 equals or exceeds five percent, the department must:

32 (1) Maintain an online data dashboard.

33 (2) Provide quarterly reports with performance metrics that
34 include:

35 (a) Updates of unemployment rates;

36 (b) Total numbers of claims paid, amount compensated, claims
37 denied, claims pending in adjudication, claims on which payment has
38 been halted for review, pending appeals, appeals redetermined by the

1 department, and appeals sent to the office of administrative
2 hearings;

3 (c) Claims center phone statistics including call volume, hold
4 times, abandoned calls, repeat calls, and all-circuits-busy messages
5 for both claimants and employers;

6 (d) Ratio of staff phone agents to employers and ratio of staff
7 phone agents to claimants;

8 (e) Number and dollar total of overpayments imposed and
9 overpayment waiver approval rate; and

10 (f) The percentage of unemployed persons in the state receiving
11 benefits (reciprocity rate).

12 NEW SECTION. **Sec. 5.** (1) The unemployment insurance legislative
13 work group is established. The work group consists of the following
14 members:

15 (a) Two members from each of the two largest caucuses of the
16 senate appointed by the president of the senate; and

17 (b) Two members from each of the two largest caucuses of the
18 house of representatives appointed by the speaker of the house of
19 representatives.

20 (2) The employment security department must:

21 (a) Meet with the unemployment insurance legislative work group
22 at least quarterly to:

23 (i) Inform the members of the progress in implementing this act;
24 and

25 (ii) Report on any new federal programs or funds received by the
26 department for unemployment compensation and administration and the
27 use of such funds; and

28 (b) Provide information and research unemployment issues as
29 requested by members of the work group.

30 (3) The work group must choose a chair or cochaIRS from among its
31 legislative membership. The chair is, or cochaIRS are, responsible
32 for convening the meetings of the work group no less than quarterly
33 each year. The work group must, at least:

34 (a) Review the department's software and technology issues,
35 including issues causing claim delays, inaccurate automated
36 notifications;

37 (b) Review the department's protocols and process for protecting
38 sensitive data;

1 (c) Consider ways to support the unemployment insurance advisory
2 committee provided for in section 3(3) of this act;

3 (d) Consider ways to assist claimants and businesses during times
4 when additional adjudicators are needed or times of high
5 unemployment; and

6 (e) Consider other relevant issues, as determined by the work
7 group.

8 (4) This section expires December 1, 2022.

--- END ---