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**SENATE BILL 5041**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Riccelli, Conway, Hasegawa, Saldaña, Salomon, Stanford, Dhingra, Nobles, Trudeau, Valdez, Bateman, Lovelett, and Cleveland

Prefiled 12/13/24.

1 AN ACT Relating to unemployment insurance benefits for striking  
2 or lockout workers; amending RCW 50.20.090, 50.20.160, and 50.29.021;  
3 adding a new section to chapter 50.20 RCW; and creating a new  
4 section.

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

6 **Sec. 1.** RCW 50.20.090 and 1988 c 83 s 1 are each amended to read  
7 as follows:

8 (1) An individual shall be disqualified for benefits for any week  
9 with respect to which the commissioner finds that the individual's  
10 unemployment is(~~÷~~

11 ~~(a) Due~~) due to a strike at the factory, establishment, or other  
12 premises at which the individual is or was last employed(~~(÷ or~~

13 ~~(b) Due to a lockout by his or her employer who is a member of a~~  
14 ~~multiemployer bargaining unit and who has locked out the employees at~~  
15 ~~the factory, establishment, or other premises at which the individual~~  
16 ~~is or was last employed after one member of the multiemployer~~  
17 ~~bargaining unit has been struck by its employees as a result of the~~  
18 ~~multiemployer bargaining process)).~~

19 (2) Subsection (1) of this section shall not apply if it is shown  
20 to the satisfaction of the commissioner that:

1 (a) The individual is not participating in or financing or  
2 directly interested in the strike (~~(or lockout)~~) that caused the  
3 individual's unemployment; and

4 (b) The individual does not belong to a grade or class of workers  
5 of which, immediately before the commencement of the strike (~~(or~~  
6 ~~lockout)~~), there were members employed at the premises at which the  
7 strike (~~(or lockout)~~) occurs, any of whom are participating in or  
8 financing or directly interested in the strike (~~(or lockout)~~):  
9 PROVIDED, That if in any case separate branches of work which are  
10 commonly conducted as separate businesses in separate premises are  
11 conducted in separate departments of the same premises, each such  
12 department shall, for the purpose of this (~~(subdivision)~~) subsection,  
13 be deemed to be a separate factory, establishment, or other premises.

14 (3) (a) Any disqualification imposed under this section shall end  
15 (~~(when)~~) on the earlier of:

16 (i) The second Sunday following the first date of the strike,  
17 provided that the strike is not found to be prohibited by federal or  
18 state law in a final judgment. If a final judgment finds that a  
19 strike is prohibited by state or federal law, any benefits paid are  
20 liable for repayment as set forth in RCW 50.20.190; or

21 (ii) The date the strike (~~(or lockout)~~) is terminated.

22 (b) When the disqualification ends, the individual is subject to  
23 the one week waiting period as provided in RCW 50.20.010 and any  
24 benefits must be calculated in accordance with this chapter.

25 **Sec. 2.** RCW 50.20.160 and 2003 2nd sp.s. c 4 s 31 are each  
26 amended to read as follows:

27 (1) A determination of amount of benefits potentially payable  
28 issued pursuant to the provisions of RCW 50.20.120 and 50.20.140  
29 shall not serve as a basis for appeal but shall be subject to request  
30 by the claimant for reconsideration and/or for redetermination by the  
31 commissioner at any time within one year from the date of delivery or  
32 mailing of such determination, or any redetermination thereof:  
33 PROVIDED, That in the absence of fraud or misrepresentation on the  
34 part of the claimant, any benefits paid prior to the date of any  
35 redetermination which reduces the amount of benefits payable shall  
36 not be subject to recovery under the provisions of RCW 50.20.190. A  
37 denial of a request to reconsider or a redetermination shall be  
38 furnished the claimant in writing and provide the basis for appeal  
39 under the provisions of RCW 50.32.020.

1 (2) A determination of denial of benefits issued under the  
2 provisions of RCW 50.20.180 shall become final, in absence of timely  
3 appeal therefrom: PROVIDED, That the commissioner may reconsider and  
4 redetermine such determinations at any time within one year from  
5 delivery or mailing to correct an error in identity, omission of  
6 fact, or misapplication of law with respect to the facts.

7 (3) A determination of allowance of benefits shall become final,  
8 in absence of a timely appeal therefrom: PROVIDED, That the  
9 commissioner may redetermine such allowance at any time within two  
10 years following the benefit year in which such allowance was made in  
11 order to recover any benefits improperly paid and for which recovery  
12 is provided under the provisions of RCW 50.20.190: AND PROVIDED  
13 FURTHER, That in the absence of fraud, misrepresentation, or  
14 nondisclosure, this provision or the provisions of RCW 50.20.190  
15 shall not be construed so as to permit redetermination or recovery of  
16 an allowance of benefits which having been made after consideration  
17 of the provisions of RCW 50.20.010(1)(c), or the provisions of RCW  
18 50.20.050, 50.20.060, or 50.20.080(~~(, or 50.20.090)~~) has become  
19 final.

20 (4) A redetermination may be made at any time: (a) To conform to  
21 a final court decision applicable to either an initial determination  
22 or a determination of denial or allowance of benefits; (b) in the  
23 event of a back pay award or settlement affecting the allowance of  
24 benefits; or (c) in the case of fraud, misrepresentation, or willful  
25 nondisclosure. Written notice of any such redetermination shall be  
26 promptly given by mail or delivered to such interested parties as  
27 were notified of the initial determination or determination of denial  
28 or allowance of benefits and any new interested party or parties who,  
29 pursuant to such regulation as the commissioner may prescribe, would  
30 be an interested party.

31 **Sec. 3.** RCW 50.29.021 and 2024 c 51 s 1 are each amended to read  
32 as follows:

33 (1)(a) An experience rating account shall be established and  
34 maintained for each employer, except employers as described in RCW  
35 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
36 payments in lieu of contributions, taxable local government employers  
37 as described in RCW 50.44.035, and those employers who are required  
38 to make payments in lieu of contributions, based on existing records  
39 of the employment security department.

1 (b) Benefits paid to an eligible individual shall be charged to  
2 the experience rating accounts of each of such individual's employers  
3 during the individual's base year in the same ratio that the wages  
4 paid by each employer to the individual during the base year bear to  
5 the wages paid by all employers to that individual during that base  
6 year, except as otherwise provided in this section.

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

11 (i) The individual qualifies for benefits under RCW 50.20.050  
12 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after  
13 having worked and earned wages in the bona fide work;

14 (ii) The individual qualifies for benefits under RCW 50.20.050  
15 (1)(b)(v) through (x) or (2)(b)(v) through (x); (~~(e)~~)

16 (iii) During a public health emergency, the claimant worked at a  
17 health care facility as defined in RCW 9A.50.010, was directly  
18 involved in the delivery of health services, and was terminated from  
19 work due to entering quarantine because of exposure to or contracting  
20 the disease that is the subject of the declaration of the public  
21 health emergency; or

22 (iv) The individual's unemployment is due to a strike at the  
23 separating employer's factory, establishment, or other premises at  
24 which the individual is or was last employed.

25 (2) The legislature finds that certain benefit payments, in whole  
26 or in part, should not be charged to the experience rating accounts  
27 of employers except those employers described in RCW 50.44.010,  
28 50.44.030, and 50.50.030 who have properly elected to make payments  
29 in lieu of contributions, taxable local government employers  
30 described in RCW 50.44.035, and those employers who are required to  
31 make payments in lieu of contributions, as follows in (a) through (i)  
32 of this subsection. The department may not require an employer to  
33 submit a request in order for these benefits to not be charged.

34 (a) Benefits paid to any individual later determined to be  
35 ineligible for those benefits or disqualified to receive those  
36 benefits shall not be charged to the experience rating account of any  
37 contribution paying employer, except:

38 (i) As provided in subsection (4) of this section; or

39 (ii) As provided in subsection (5) of this section.

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

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

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

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

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

17 (e) If the department determines an individual left the employ of  
18 the separating employer under the circumstances described in RCW  
19 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for separation that  
20 was necessary because the care for a child or a vulnerable adult in  
21 the claimant's care is inaccessible, (iv), (xi), (xii), or (xiii), or  
22 (3), as applicable, benefits paid to that individual shall not be  
23 charged to the experience rating account of any base year  
24 contribution paying employer.

25 (f) Upon approval of an individual's training benefits plan  
26 submitted in accordance with RCW 50.22.155(2), an individual is  
27 considered enrolled in training, and regular benefits beginning with  
28 the week of approval shall not be charged to the experience rating  
29 account of any contribution paying employer.

30 (g) Training benefits paid to an individual under RCW 50.22.155  
31 shall not be charged to the experience rating account of any  
32 contribution paying employer.

33 (h)(i) Benefits paid during the one week waiting period when the  
34 one week waiting period is fully paid or fully reimbursed by the  
35 federal government shall not be charged to the experience rating  
36 account of any contribution paying employer.

37 (ii) In the event the one week waiting period is partially paid  
38 or partially reimbursed by the federal government, the department  
39 may, by rule, elect to not charge, in full or in part, benefits paid

1 during the one week waiting period to the experience rating account  
2 of any contribution paying employer.

3 (i) Benefits paid for all weeks starting with the week ending  
4 March 28, 2020, and ending with the week ending May 30, 2020, shall  
5 not be charged to the experience rating account of any contribution  
6 paying employer.

7 (3) (a) A contribution paying base year employer, except employers  
8 as provided in subsection (5) of this section, not otherwise eligible  
9 for relief of charges for benefits under this section, may receive  
10 such relief if the benefit charges result from payment to an  
11 individual who:

12 (i) Last left the employ of such employer voluntarily for reasons  
13 not attributable to the employer. In addition to other circumstances  
14 identified by the department by rule, an individual who leaves the  
15 employ of such employer under the circumstances described in RCW  
16 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), or (xii), or (3)  
17 must be deemed to have left their employ for reasons not attributable  
18 to the employer;

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

22 (iii) Is unemployed as a result of closure or severe curtailment  
23 of operation at the employer's plant, building, worksite, or other  
24 facility. This closure must be for reasons directly attributable to a  
25 catastrophic occurrence such as fire, flood, or other natural  
26 disaster, or to the presence of any dangerous, contagious, or  
27 infectious disease that is the subject of a public health emergency  
28 at the employer's plant, building, worksite, or other facility;

29 (iv) Continues to be employed by the employer seeking relief and:  
30 (A) The employer furnished part-time work to the individual during  
31 the base year; (B) the individual has become eligible for benefits  
32 because of loss of employment with one or more other employers; and  
33 (C) the employer has continued to furnish or make available part-time  
34 work to the individual in substantially the same amount as during the  
35 individual's base year. This subsection does not apply to shared work  
36 employers under chapter 50.60 RCW;

37 (v) Was hired to replace an employee who is a member of the  
38 military reserves or National Guard and was called to federal active  
39 military service by the president of the United States and is  
40 subsequently laid off when that employee is reemployed by their

1 employer upon release from active duty within the time provided for  
2 reemployment in RCW 73.16.035;

3 (vi) Worked for an employer for 20 weeks or less, and was laid  
4 off at the end of temporary employment when that employee temporarily  
5 replaced a permanent employee receiving family or medical leave  
6 benefits under Title 50A RCW, and the layoff is due to the return of  
7 that permanent employee. This subsection (3)(a)(vi) applies to claims  
8 with an effective date on or after January 1, 2020; or

9 (vii) Was discharged because the individual was unable to satisfy  
10 a job prerequisite required by law or administrative rule.

11 (b) The employer requesting relief of charges under this  
12 subsection must request relief in writing within 30 days following  
13 mailing to the last known address of the notification of the valid  
14 initial determination of such claim, stating the date and reason for  
15 the separation or the circumstances of continued employment. The  
16 department may waive this time limitation for good cause. The  
17 commissioner, upon investigation of the request, shall determine  
18 whether relief should be granted.

19 (4) When a benefit claim becomes invalid due to an amendment or  
20 adjustment of a report where the employer failed to report or  
21 inaccurately reported hours worked or remuneration paid, or both, all  
22 benefits paid will be charged to the experience rating account of the  
23 contribution paying employer or employers that originally filed the  
24 incomplete or inaccurate report or reports. An employer who  
25 reimburses the trust fund for benefits paid to workers and who fails  
26 to report or inaccurately reported hours worked or remuneration paid,  
27 or both, shall reimburse the trust fund for all benefits paid that  
28 are based on the originally filed incomplete or inaccurate report or  
29 reports.

30 (5) An employer's experience rating account may not be relieved  
31 of charges for a benefit payment and an employer who reimburses the  
32 trust fund for benefit payments may not be credited for a benefit  
33 payment if a benefit payment was made because the employer or  
34 employer's agent failed to respond timely or adequately to a written  
35 request of the department for information relating to the claim or  
36 claims without establishing good cause for the failure and the  
37 employer or employer's agent has a pattern of such failures. The  
38 commissioner has the authority to determine whether the employer has  
39 good cause under this subsection.

1 (a) For the purposes of this subsection, "adequately" means  
2 providing accurate information of sufficient quantity and quality  
3 that would allow a reasonable person to determine whether an  
4 individual is eligible for or qualified to receive benefits.

5 (b) (i) For the purposes of this subsection, "pattern" means a  
6 benefit payment was made because the employer or employer's agent  
7 failed to respond timely or adequately to a written request of the  
8 department for information relating to a claim or claims without  
9 establishing good cause for the failure, if the greater of the  
10 following calculations for an employer is met:

11 (A) At least three times in the previous two years; or

12 (B) Twenty percent of the total current claims against the  
13 employer.

14 (ii) If an employer's agent is utilized, a pattern is established  
15 based on each individual client employer that the employer's agent  
16 represents.

17 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.20  
18 RCW to read as follows:

19 If an individual receives benefits under this title while being  
20 unemployed due to a strike at the separating employer's factory,  
21 establishment, or other premises and the individual subsequently  
22 receives retroactive wages from the separating employer for any week  
23 for which he or she received benefits under this title, the  
24 department shall issue an overpayment assessment to recover the  
25 corresponding benefits as provided under RCW 50.20.190.

26 NEW SECTION. **Sec. 5.** If any part of this act is found to be in  
27 conflict with federal requirements that are a prescribed condition to  
28 the allocation of federal funds to the state or the eligibility of  
29 employers in this state for federal unemployment tax credits, the  
30 conflicting part of this act is inoperative solely to the extent of  
31 the conflict, and the finding or determination does not affect the  
32 operation of the remainder of this act. Rules adopted under this act  
33 must meet federal requirements that are a necessary condition to the  
34 receipt of federal funds by the state or the granting of federal  
35 unemployment tax credits to employers in this state.

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