
SENATE BILL 5546

State of Washington

53rd Legislature

1993 Regular Session

By Senators Prentice and Moore; by request of Employment Security Department

Read first time 02/03/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to unemployment compensation; amending RCW
2 50.04.165, 50.20.098, and 50.22.020; creating a new section; providing
3 an effective date; and declaring an emergency.

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

5 **Sec. 1.** RCW 50.04.165 and 1991 c 72 s 57 are each amended to read
6 as follows:

7 ~~((1))~~ Services performed by ~~((corporate officers as defined in~~
8 ~~subsection (2) of this section))~~ a person appointed as an officer of a
9 corporation under RCW 23B.08.400, other than those covered by chapter
10 50.44 RCW, shall not be considered services in employment. However, a
11 corporation may elect to cover not less than all of its corporate
12 officers under RCW 50.24.160. If an employer does not elect to cover
13 its corporate officers under RCW 50.24.160, the employer must notify
14 its corporate officers in writing that they are ineligible for
15 unemployment benefits. If the employer fails to notify any corporate
16 officer, then that person shall not be considered to be a corporate
17 officer for the purposes of this section.

1 (~~(2) The officers of a corporation shall consist of a president,~~
2 ~~one or more vice presidents as may be prescribed by the bylaws, a~~
3 ~~secretary, and a treasurer.~~)

4 **Sec. 2.** RCW 50.20.098 and 1989 c 92 s 1 are each amended to read
5 as follows:

6 (1) Benefits shall not be paid on the basis of services performed
7 by an alien unless the alien is an individual who (~~has been~~) was
8 lawfully admitted for permanent residence, was lawfully present for
9 purposes of performing such services, or otherwise (~~is~~) was
10 permanently residing in the United States under color of law (~~(+)~~) at
11 the time such services were performed, including an alien who (~~is~~)
12 was lawfully present in the United States as a result of the
13 application of (~~(8 U.S.C. Sec. 1153(a)(7) or)~~) the provisions of 8
14 U.S.C. Sec. 1182(d)(5): PROVIDED, That any modifications to 26 U.S.C.
15 Sec. 3304(a)(14) as provided by PL 94-566 which specify other
16 conditions or other effective date than stated herein for the denial of
17 benefits based on services performed by aliens and which modifications
18 are required to be implemented under state law as a condition for full
19 tax credit against the tax imposed by 26 U.S.C. Sec. 3301 shall be
20 deemed applicable under this section.

21 (2) Any data or information required of individuals applying for
22 benefits to determine whether benefits are not payable to them because
23 of their alien status shall be uniformly required from all applicants
24 for benefits.

25 (3) In the case of an individual whose application for benefits
26 would otherwise be approved, no determination that benefits to the
27 individual are not payable because of his or her alien status shall be
28 made except upon a preponderance of the evidence.

29 **Sec. 3.** RCW 50.22.020 and 1981 c 35 s 8 are each amended to read
30 as follows:

31 When the result would not be inconsistent with the other provisions
32 of this chapter, the provisions of this title and commissioner's
33 regulations enacted pursuant thereto, which apply to claims for, or the
34 payment of, regular benefits, shall apply to claims for, and the
35 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 employment
7 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 (a) Begins with the week following the week in which such failure
15 occurs; and

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

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

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

33 (a) The gross average weekly remuneration payable to such
34 individual for the position does not exceed the sum of--

35 (i) The individual's weekly benefit amount (as determined under RCW
36 50.20.120) for his or her benefit year; plus

37 (ii) The amount (if any) of supplemental unemployment compensation
38 benefits (as defined in section 501(c)(17)(D) of the Internal Revenue

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

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

5 (c) Such failure would not result in a denial of compensation under
6 the provisions of RCW 50.20.080 and 50.20.100 to the extent such
7 provisions are not inconsistent with the provisions of subsections (3)
8 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 as
14 actively engaged in seeking work during any week if:

15 (a) The individual has engaged in a systematic and sustained effort
16 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 during
19 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 disqualification
24 for voluntarily leaving employment, being discharged for misconduct, or
25 refusing suitable employment shall apply for purposes of determining
26 eligibility for extended compensation unless such termination is based
27 upon employment subsequent to the date of such disqualification.

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

33 NEW SECTION. Sec. 4. If any part of this act is found to be in
34 conflict with federal requirements which are a prescribed condition to
35 the allocation of federal funds to the state or the eligibility of
36 employers in this state for federal unemployment tax credits, the
37 conflicting part of this act is hereby declared to be inoperative
38 solely to the extent of the conflict, and such finding or determination

1 shall not affect the operation of the remainder of this act. The rules
2 under this act shall meet federal requirements which are a necessary
3 condition to the receipt of federal funds by the state or the granting
4 of federal unemployment tax credits to employers in this state.

5 NEW SECTION. **Sec. 5.** If any provision of this act or its
6 application to any person or circumstance is held invalid, the
7 remainder of the act or the application of the provision to other
8 persons or circumstances is not affected.

9 NEW SECTION. **Sec. 6.** This act is necessary for the immediate
10 preservation of the public peace, health, or safety, or support of the
11 state government and its existing public institutions, and shall take
12 effect March 6, 1993.

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