S-5846.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE SENATE BILL 6234**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 66th Legislature 2020 Regular Session**

**By** Senate Labor & Commerce (originally sponsored by Senators Kuderer, Nguyen, Lovelett, Hasegawa, Das, McCoy, and Wilson, C.)

AN ACT Relating to the use of third parties by employers to dispute unemployment claims; amending RCW 50.32.020; adding a new section to chapter 50.44 RCW; creating a new section; and providing an effective date.

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

NEW SECTION. **Sec.**  A new section is added to chapter 50.44 RCW to read as follows:

(1) This section only applies to the following employers: This state and institutions of higher education as defined in RCW 28B.10.016.

(2) Employers covered by this section may not contract with a private entity to:

(a) Respond on behalf of the employer to written requests by the department for information relating to an individual's claim or claims;

(b) File appeals and petitions for review on behalf of the employer regarding an individual's right to benefits; or

(c) Represent the employer before the appeal tribunal and the commissioner in appeals involving an individual's right to benefits.

(3) Nothing in this section prohibits an employer from contracting with a private entity, including a third-party payer or professional employer organization, for any services other than the services prohibited by subsection (2) of this section.

**Sec.**  RCW 50.32.020 and 1987 c 61 s 1 are each amended to read as follows:

(1) The applicant or claimant, his or her most recent employing unit or any interested party which the commissioner by regulation prescribes, may file an appeal from any determination or redetermination with the appeal tribunal within thirty days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to his or her last known address: PROVIDED, That in the event an appeal with respect to any determination is pending as of the date when a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination. Any appeal from a determination of denial of benefits which is effective for an indefinite period shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from any determination, or redetermination, within the time allowed by the provisions of this section for appeal therefrom, said determination, or redetermination, as the case may be, shall be conclusively deemed to be correct except as hereinbefore provided in respect to reconsideration by the commissioner of any determination.

(2)(a) If an employer or employer's agent fails to respond or inadequately responds to a written request of the department for information relating to an individual's claim or claims, and a third-party payer files an appeal with the appeal tribunal on behalf of the employer, and the appeal concerns the same legal or factual issue of concern in the request for information, the employer shall pay the department a one thousand dollar penalty. If the appeal does not result in a final decision denying benefits to the individual, then the employer shall pay the department an additional one thousand dollar penalty.

(b) For the purposes of this subsection, "inadequately" means failing to provide accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

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

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

NEW SECTION. **Sec.**  This act takes effect March 1, 2021.

**--- END ---**