**1893-S.E AMS HOLY S5582.1 - NOT FOR FLOOR USE**

**ESHB 1893** - S AMD TO LC COMM AMD (S-5178.1/24) **795**

By Senator Holy

On page 2, beginning on line 5, after "judgment" strike all material through "judgment" on line 6 and insert ". If a final judgment finds that a strike is prohibited by state or federal law, any benefits paid are liable for repayment as set forth in RCW 50.20.190"

On page 2, after line 15, insert the following:

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

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

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

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

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

Renumber the remaining sections consecutively and correct any internal references accordingly.

On page 7, line 15, after "50.20.090" insert "and 50.20.160"

EFFECT: (1) Provides that if a final judgment finds that a strike is prohibited by state or federal law, any unemployment insurance benefits paid are liable for repayment under the recovery of benefit payment statute.

(2) Removes the provision that the disqualification would resume as of the date of a final judgment that the strike is prohibited by federal or state law.

(3) Removes a reference to the striking worker disqualification statute that prevents redetermination or recovery of benefits, thereby allowing the ESD commissioner's redetermination of benefit allowance within two years to recover benefits improperly paid and recovery under the recovery of benefit payment statute.