
SENATE BILL 5777

State of Washington

68th Legislature

2024 Regular Session

By Senators Keiser, Conway, Lovick, Valdez, Trudeau, Shewmake, Randall, Van De Wege, Dhingra, Stanford, Hasegawa, Nguyen, Hunt, Kauffman, Lias, Frame, Kuderer, Nobles, Pedersen, Salomon, and C. Wilson

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1 AN ACT Relating to unemployment insurance benefits for striking
2 or lockout workers; amending RCW 50.20.090; reenacting and amending
3 RCW 50.29.021; and creating a new section.

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

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

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

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

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

18 (2) Subsection (1) of this section shall not apply if it is shown
19 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) Any disqualification imposed under this section shall end
15 (~~(when)~~) at the earlier of the Sunday following: (a) The first day of
16 the strike; or (b) the date the strike (~~(or lockout)~~) is terminated.
17 When the disqualification ends, the individual is subject to the one
18 week waiting period as provided in RCW 50.20.010.

19 **Sec. 2.** RCW 50.29.021 and 2023 c 451 s 2 and 2023 c 240 s 3 are
20 each reenacted and amended to read as follows:

21 (1)(a) An experience rating account shall be established and
22 maintained for each employer, except employers as described in RCW
23 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
24 payments in lieu of contributions, taxable local government employers
25 as described in RCW 50.44.035, and those employers who are required
26 to make payments in lieu of contributions, based on existing records
27 of the employment security department.

28 (b) Benefits paid to an eligible individual shall be charged to
29 the experience rating accounts of each of such individual's employers
30 during the individual's base year in the same ratio that the wages
31 paid by each employer to the individual during the base year bear to
32 the wages paid by all employers to that individual during that base
33 year, except as otherwise provided in this section.

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

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

4 (ii) The individual qualifies for benefits under RCW 50.20.050
5 (1)(b)(v) through (x) or (2)(b)(v) through (x); or

6 (iii) During a public health emergency, the claimant worked at a
7 health care facility as defined in RCW 9A.50.010, was directly
8 involved in the delivery of health services, and was terminated from
9 work due to entering quarantine because of exposure to or contracting
10 the disease that is the subject of the declaration of the public
11 health emergency.

12 (2) The legislature finds that certain benefit payments, in whole
13 or in part, should not be charged to the experience rating accounts
14 of employers except those employers described in RCW 50.44.010,
15 50.44.030, and 50.50.030 who have properly elected to make payments
16 in lieu of contributions, taxable local government employers
17 described in RCW 50.44.035, and those employers who are required to
18 make payments in lieu of contributions, as follows:

19 (a) Benefits paid to any individual later determined to be
20 ineligible shall not be charged to the experience rating account of
21 any contribution paying employer, except as provided in subsection
22 (4) of this section.

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

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

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

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

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

39 (e) Benefits paid to an individual who qualifies for benefits
40 under RCW 50.20.050(1)(b)(iv) or (xi), (2)(b)(ii), only for

1 separation that was necessary because the care for a child or a
2 vulnerable adult in the claimant's care is inaccessible, (iv), (xi),
3 (xii), or (xiii), or (3), as applicable, shall not be charged to the
4 experience rating account of any contribution paying employer.

5 (f) Benefits paid that exceed the benefits that would have been
6 paid if the weekly benefit amount for the claim had been determined
7 as one percent of the total wages paid in the individual's base year
8 shall not be charged to the experience rating account of any
9 contribution paying employer. This subsection (2)(f) does not apply
10 to the calculation of contribution rates under RCW 50.29.025 for rate
11 year 2010 and thereafter.

12 (g) Upon approval of an individual's training benefits plan
13 submitted in accordance with RCW 50.22.155(2), an individual is
14 considered enrolled in training, and regular benefits beginning with
15 the week of approval shall not be charged to the experience rating
16 account of any contribution paying employer.

17 (h) Training benefits paid to an individual under RCW 50.22.155
18 shall not be charged to the experience rating account of any
19 contribution paying employer.

20 (i)(i) Benefits paid during the one week waiting period when the
21 one week waiting period is fully paid or fully reimbursed by the
22 federal government shall not be charged to the experience rating
23 account of any contribution paying employer.

24 (ii) In the event the one week waiting period is partially paid
25 or partially reimbursed by the federal government, the department
26 may, by rule, elect to not charge, in full or in part, benefits paid
27 during the one week waiting period to the experience rating account
28 of any contribution paying employer.

29 (j) Benefits paid for all weeks starting with the week ending
30 March 28, 2020, and ending with the week ending May 30, 2020, shall
31 not be charged to the experience rating account of any contribution
32 paying employer.

33 (k) The individual's unemployment is due to a strike at the
34 separating employer's factory, establishment, or other premises at
35 which the individual is or was last employed.

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

1 (i) Last left the employ of such employer voluntarily for reasons
2 not attributable to the employer;

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

6 (iii) Is unemployed as a result of closure or severe curtailment
7 of operation at the employer's plant, building, worksite, or other
8 facility. This closure must be for reasons directly attributable to a
9 catastrophic occurrence such as fire, flood, or other natural
10 disaster, or to the presence of any dangerous, contagious, or
11 infectious disease that is the subject of a public health emergency
12 at the employer's plant, building, worksite, or other facility;

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

21 (v) Was hired to replace an employee who is a member of the
22 military reserves or National Guard and was called to federal active
23 military service by the president of the United States and is
24 subsequently laid off when that employee is reemployed by their
25 employer upon release from active duty within the time provided for
26 reemployment in RCW 73.16.035;

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

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

35 (b) The employer requesting relief of charges under this
36 subsection must request relief in writing within 30 days following
37 mailing to the last known address of the notification of the valid
38 initial determination of such claim, stating the date and reason for
39 the separation or the circumstances of continued employment. The

1 commissioner, upon investigation of the request, shall determine
2 whether relief should be granted.

3 (4) When a benefit claim becomes invalid due to an amendment or
4 adjustment of a report where the employer failed to report or
5 inaccurately reported hours worked or remuneration paid, or both, all
6 benefits paid will be charged to the experience rating account of the
7 contribution paying employer or employers that originally filed the
8 incomplete or inaccurate report or reports. An employer who
9 reimburses the trust fund for benefits paid to workers and who fails
10 to report or inaccurately reported hours worked or remuneration paid,
11 or both, shall reimburse the trust fund for all benefits paid that
12 are based on the originally filed incomplete or inaccurate report or
13 reports.

14 (5) An employer's experience rating account may not be relieved
15 of charges for a benefit payment and an employer who reimburses the
16 trust fund for benefit payments may not be credited for a benefit
17 payment if a benefit payment was made because the employer or
18 employer's agent failed to respond timely or adequately to a written
19 request of the department for information relating to the claim or
20 claims without establishing good cause for the failure and the
21 employer or employer's agent has a pattern of such failures. The
22 commissioner has the authority to determine whether the employer has
23 good cause under this subsection.

24 (a) For the purposes of this subsection, "adequately" means
25 providing accurate information of sufficient quantity and quality
26 that would allow a reasonable person to determine eligibility for
27 benefits.

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

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

35 (B) Twenty percent of the total current claims against the
36 employer.

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

1 NEW SECTION. **Sec. 3.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition to
3 the allocation of federal funds to the state or the eligibility of
4 employers in this state for federal unemployment tax credits, the
5 conflicting part of this act is inoperative solely to the extent of
6 the conflict, and this finding or determination does not affect the
7 operation of the remainder of this act. Rules adopted under this act
8 must meet federal requirements that are a necessary condition to the
9 receipt of federal funds by the state or the granting of federal
10 unemployment tax credits to employers in this state.

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