
ENGROSSED SUBSTITUTE SENATE BILL 5041

State of Washington

69th Legislature

2025 Regular Session

By Senate Labor & Commerce (originally sponsored by Senators Riccelli, Conway, Hasegawa, Saldaña, Salomon, Stanford, Dhingra, Nobles, Trudeau, Valdez, Bateman, Lovelett, Cleveland, Frame, Orwall, Pedersen, Slatter, Wellman, and C. Wilson)

READ FIRST TIME 02/18/25.

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 new sections to chapter 50.20 RCW; creating a new section;
4 providing an effective date; and providing expiration dates.

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. However,
25 if an individual is unemployed due to a strike at the separating
26 employer's factory, establishment, or other premises at which the
27 individual is or was last employed, the individual may receive weekly
28 benefits for no more than 12 calendar weeks, subject to other
29 limitations provided in this title. Any weekly benefits received
30 unrelated to the individual's unemployment due to a strike may not be
31 counted toward the 12 calendar weeks.

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

34 (1) A determination of amount of benefits potentially payable
35 issued pursuant to the provisions of RCW 50.20.120 and 50.20.140
36 shall not serve as a basis for appeal but shall be subject to request
37 by the claimant for reconsideration and/or for redetermination by the
38 commissioner at any time within one year from the date of delivery or
39 mailing of such determination, or any redetermination thereof:

1 PROVIDED, That in the absence of fraud or misrepresentation on the
2 part of the claimant, any benefits paid prior to the date of any
3 redetermination which reduces the amount of benefits payable shall
4 not be subject to recovery under the provisions of RCW 50.20.190. A
5 denial of a request to reconsider or a redetermination shall be
6 furnished the claimant in writing and provide the basis for appeal
7 under the provisions of RCW 50.32.020.

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

14 (3) A determination of allowance of benefits shall become final,
15 in absence of a timely appeal therefrom: PROVIDED, That the
16 commissioner may redetermine such allowance at any time within two
17 years following the benefit year in which such allowance was made in
18 order to recover any benefits improperly paid and for which recovery
19 is provided under the provisions of RCW 50.20.190: AND PROVIDED
20 FURTHER, That in the absence of fraud, misrepresentation, or
21 nondisclosure, this provision or the provisions of RCW 50.20.190
22 shall not be construed so as to permit redetermination or recovery of
23 an allowance of benefits which having been made after consideration
24 of the provisions of RCW 50.20.010(1)(c), or the provisions of RCW
25 50.20.050, 50.20.060, or 50.20.080(~~(, or 50.20.090)~~) has become
26 final.

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

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

1 (1) (a) An experience rating account shall be established and
2 maintained for each employer, except employers as described in RCW
3 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
4 payments in lieu of contributions, taxable local government employers
5 as described in RCW 50.44.035, and those employers who are required
6 to make payments in lieu of contributions, based on existing records
7 of the employment security department.

8 (b) Benefits paid to an eligible individual shall be charged to
9 the experience rating accounts of each of such individual's employers
10 during the individual's base year in the same ratio that the wages
11 paid by each employer to the individual during the base year bear to
12 the wages paid by all employers to that individual during that base
13 year, except as otherwise provided in this section.

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

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

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

23 (iii) During a public health emergency, the claimant worked at a
24 health care facility as defined in RCW 9A.50.010, was directly
25 involved in the delivery of health services, and was terminated from
26 work due to entering quarantine because of exposure to or contracting
27 the disease that is the subject of the declaration of the public
28 health emergency; or

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

32 (2) The legislature finds that certain benefit payments, in whole
33 or in part, should not be charged to the experience rating accounts
34 of employers except those employers described in RCW 50.44.010,
35 50.44.030, and 50.50.030 who have properly elected to make payments
36 in lieu of contributions, taxable local government employers
37 described in RCW 50.44.035, and those employers who are required to
38 make payments in lieu of contributions, as follows in (a) through (i)
39 of this subsection. The department may not require an employer to
40 submit a request in order for these benefits to not be charged.

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

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

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

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

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

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

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

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

23 (e) If the department determines an individual left the employ of
24 the separating employer under the circumstances described in RCW
25 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for separation that
26 was necessary because the care for a child or a vulnerable adult in
27 the claimant's care is inaccessible, (iv), (xi), (xii), or (xiii), or
28 (3), as applicable, benefits paid to that individual shall not be
29 charged to the experience rating account of any base year
30 contribution paying employer.

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

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

39 (h) (i) Benefits paid during the one week waiting period when the
40 one week waiting period is fully paid or fully reimbursed by the

1 federal government shall not be charged to the experience rating
2 account of any contribution paying employer.

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

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

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

17 (i) Last left the employ of such employer voluntarily for reasons
18 not attributable to the employer. In addition to other circumstances
19 identified by the department by rule, an individual who leaves the
20 employ of such employer under the circumstances described in RCW
21 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), or (xii), or (3)
22 must be deemed to have left their employ for reasons not attributable
23 to the employer;

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

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

34 (iv) Continues to be employed by the employer seeking relief and:
35 (A) The employer furnished part-time work to the individual during
36 the base year; (B) the individual has become eligible for benefits
37 because of loss of employment with one or more other employers; and
38 (C) the employer has continued to furnish or make available part-time
39 work to the individual in substantially the same amount as during the

1 individual's base year. This subsection does not apply to shared work
2 employers under chapter 50.60 RCW;

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

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

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

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

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

36 (5) An employer's experience rating account may not be relieved
37 of charges for a benefit payment and an employer who reimburses the
38 trust fund for benefit payments may not be credited for a benefit
39 payment if a benefit payment was made because the employer or
40 employer's agent failed to respond timely or adequately to a written

1 request of the department for information relating to the claim or
2 claims without establishing good cause for the failure and the
3 employer or employer's agent has a pattern of such failures. The
4 commissioner has the authority to determine whether the employer has
5 good cause under this subsection.

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

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

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

17 (B) Twenty percent of the total current claims against the
18 employer.

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

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

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

31 (2) This section expires December 31, 2035.

32 NEW SECTION. **Sec. 5.** If any part of this act is found to be in
33 conflict with federal requirements that are a prescribed condition to
34 the allocation of federal funds to the state or the eligibility of
35 employers in this state for federal unemployment tax credits, the
36 conflicting part of this act is inoperative solely to the extent of
37 the conflict, and the finding or determination does not affect the
38 operation of the remainder of this act. Rules adopted under this act

1 must meet federal requirements that are a necessary condition to the
2 receipt of federal funds by the state or the granting of federal
3 unemployment tax credits to employers in this state.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.20
5 RCW to read as follows:

6 (1) By December 31, 2025, and continuing annually each year until
7 2035, the department must submit a report to the legislature on the
8 prevalence of strikes occurring within Washington and the impact of
9 strikes on the unemployment insurance trust fund. The report must
10 include, at a minimum:

11 (a) The total number of strikes occurring that year within
12 Washington, the industry sectors in which strikes occurred, the
13 number of employees that participated in each strike, the number of
14 unemployment claims paid to workers participating in the strike, the
15 total amount of unemployment benefits paid, the number of employers
16 who experienced a rate class increase in the year following a labor
17 strike, including the rate class for each employer without
18 identifying information for the year prior to the strike and for the
19 year following the strike, any increase in the social cost factor
20 rate from the year prior to the strike and the year following the
21 strike, and the benefits paid which are charged to employers who make
22 payments in lieu of contributions;

23 (b) The sum totals of all previous years' information required
24 under (a) of this subsection since the effective date of this
25 section; and

26 (c) The sum totals of the information required in (a) of this
27 subsection for each year in the 10 years prior to the effective date
28 of this section as well as the sum of those 10 years.

29 (2) This section expires January 1, 2036.

30 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2026.

31 NEW SECTION. **Sec. 8.** Sections 1 through 3 of this act expire
32 December 31, 2035.

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