CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE SENATE BILL 5041

Chapter 352, Laws of 2025

69th Legislature
2025 Regular Session

UNEMPLOYMENT INSURANCE—STRIKING AND LOCKOUT WORKERS

EFFECTIVE DATE: July 27, 2025—Except for sections 1 through 7, which take effect January 1, 2026.

Passed by the Senate April 25, 2025
Yeas 27 Nays 21

DENNY HECK

President of the Senate

Passed by the House April 25, 2025
Yeas 51 Nays 45

LAURIE JINKINS

Speaker of the House of Representatives

Approved May 19, 2025 1:44 PM

BOB FERGUSON

Governor of the State of Washington

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5041** as passed by the Senate and the House of Representatives on the dates hereon set forth.

SARAH BANNISTER

Secretary

FILED

May 20, 2025

Secretary of State
State of Washington

ENGROSSED SUBSTITUTE SENATE BILL 5041

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2025 Regular Session

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.

AN ACT Relating to unemployment insurance benefits for striking or lockout workers; amending RCW 50.20.090, 50.20.160, 50.29.021, and 50.29.026; adding new sections to chapter 50.20 RCW; adding new sections to chapter 49.08 RCW; creating a new section; repealing RCW 49.08.060; providing an effective date; and providing expiration dates.

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

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

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

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

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

(2) Subsection (1) of this section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in or financing or directly interested in the strike ((~~or lockout~~)) that caused the individual's unemployment; and

(b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the strike ((~~or lockout~~)), there were members employed at the premises at which the strike ((~~or lockout~~)) occurs, any of whom are participating in or financing or directly interested in the strike ((~~or lockout~~)): PROVIDED, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this ((~~subdivision~~)) subsection, be deemed to be a separate factory, establishment, or other premises.

(3)(a) Any disqualification imposed under this section shall end ((~~when~~)) on the earlier of:

(i) The second Sunday following the first date of the strike, provided that the strike is not found to be prohibited by federal or state law in a final judgment. 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; or

(ii) The date the strike ((~~or lockout~~)) is terminated.

(b) When the disqualification ends, the individual is subject to the one week waiting period as provided in RCW 50.20.010 and any benefits must be calculated in accordance with this chapter. However, if an individual is unemployed due to a strike at the separating employer's factory, establishment, or other premises at which the individual is or was last employed, the individual may receive weekly benefits for no more than six calendar weeks, subject to other limitations provided in this title. Any weekly benefits received unrelated to the individual's unemployment due to a strike may not be counted toward the six calendar weeks.

(4) If benefits are issued as a result of a strike under this section, the department shall notify the separating employer of the mediation services available through the public employment relations commission.

Sec. 2. 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.

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

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

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

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

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

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

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

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

(2) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010,

50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows in (a) through (i) of this subsection. The department may not require an employer to submit a request in order for these benefits to not be charged.

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

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

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

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

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

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

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

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

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

(f) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with

the week of approval shall not be charged to the experience rating account of any contribution paying employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

are based on the originally filed incomplete or inaccurate report or reports.

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

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

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

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

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

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

Sec. 4. RCW 50.29.026 and 2024 c 52 s 1 are each amended to read as follows:

(1) A qualified employer's contribution rate or array calculation factor rate determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th that were used for the purpose of computing the employer's contribution rate or array calculation factor rate. On receiving timely payment of a voluntary contribution,

the commissioner shall cancel the benefits equal to the amount of the voluntary contribution and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution must be an amount that will result in a recomputed benefit ratio that is in a rate class at least two rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate required under this title for the rate year for which the employer is seeking a modification of the employer's rate and ending on March ((~~31st~~)) 1st of that rate year.

(c) A benefit ratio may not be recomputed nor a rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) This section does not apply to any employer who has not had an increase of at least eight rate classes from the previous tax rate year.

(3) If a contribution paying employer is charged benefits due to a strike under RCW 50.29.021, the department may:

(a) Evaluate whether the employer is eligible to make a voluntary contribution under this section; and

(b) Provide notice to eligible employers of the department's determination of the employer's eligibility to make a voluntary contribution.

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

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

(2) This section expires December 31, 2035.

NEW SECTION. **Sec. 6.** 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. 7.** A new section is added to chapter 50.20 RCW to read as follows:

(1) By December 31, 2026, and continuing annually each year through 2035, the department must submit a report to the legislature on the prevalence of strikes occurring within Washington and the impact of strikes on the unemployment insurance trust fund. The report must include, at a minimum:

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

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

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

(2) This section expires January 1, 2036.

NEW SECTION. **Sec. 8.** A new section is added to chapter 49.08 RCW to read as follows:

(1) Where referral to publicly supported dispute resolution services through the federal mediation and conciliation service or other applicable federal agency is impracticable or where those services are unavailable due to federal staffing or funding reductions, the public employment relations commission may charge private sector employers and labor organizations a fee for covering the costs of services provided under this chapter.

(2) Fees collected under this section must be deposited into the private sector labor dispute resolution account created in section 9 of this act.

NEW SECTION. **Sec. 9.** A new section is added to chapter 49.08 RCW to read as follows:

The private sector labor dispute resolution account is created in the custody of the state treasurer. All fees collected under section 8 of this act must be deposited into the account. The executive director of the public employment relations commission may authorize expenditures from the account solely for the administration, staffing, and other related expenses of private sector labor dispute resolution services under this chapter. The account is subject to allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

NEW SECTION. **Sec. 10.** RCW 49.08.060 (Tender on exhaustion of available funds) and 1903 c 58 s 6 are each repealed.

NEW SECTION. **Sec. 11.** Sections 1 through 7 of this act take effect January 1, 2026.

NEW SECTION. **Sec. 12.** Sections 1 through 4 of this act expire December 31, 2035.

Passed by the Senate April 25, 2025.
Passed by the House April 25, 2025.
Approved by the Governor May 19, 2025.
Filed in Office of Secretary of State May 20, 2025.

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