

Chapter 50.32 RCW
REVIEW, HEARINGS, AND APPEALS

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RCW 50.32.010 Appeal tribunals. The commissioner shall establish one or more impartial appeal tribunals, each of which shall consist of an administrative law judge appointed under chapter 34.12 RCW who shall decide the issues submitted to the tribunal. No administrative law judge may hear or decide any disputed claim in any case in which he or she is an interested party. Wherever the term "appeal tribunal" or "the appeal tribunal" is used in this title the same refers to an appeal tribunal established under the provisions of this section. Notice of any appeal or petition for hearing taken to an appeal tribunal in any proceeding under this title may be filed with such agency as the commissioner may by regulation prescribe. [2010 c 8 s 13036; 1981 c 67 s 30; 1945 c 35 s 117; Rem. Supp. 1945 s 9998-255. Prior: 1943 c 127 s 4; 1941 c 253 s 4.]

Effective dates—Severability—1981 c 67: See notes following RCW 34.12.010.

RCW 50.32.020 Filing of benefit appeals. 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redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination.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. [1987 c 61 s 1; 1951 c 215 s 10; 1945 c 35 s 118; Rem. Supp. 1945 s 9998-256. Prior: 1943 c 127 s 4; 1941 c 253 s 4; 1939 c 214 s 4; 1937 c 162 s 6.]

RCW 50.32.025 Mailed appeal or petition. The appeal or petition from a determination, redetermination, order and notice of assessment, appeals decision, or commissioner's decision which is (1) transmitted through the United States mail, shall be deemed filed and received by the addressee on the date shown by the United States postal service cancellation mark stamped by the United States postal service employees upon the envelope or other appropriate wrapper containing it or, (2) mailed but not received by the addressee, or where received and the United States postal service cancellation mark is illegible, erroneous or omitted, shall be deemed filed and received on the date it was mailed, if the sender establishes by competent evidence that the appeal or petition was deposited in the United States mail on or before the date due for filing: PROVIDED, That in the case of a metered cancellation mark by the sender and a United States postal service cancellation mark on the same envelope or other wrapper, the latter shall control: PROVIDED, FURTHER, That in any of the above circumstances, the appeal or petition must be properly addressed and have sufficient postage affixed thereto. [1975 1st ex.s. c 228 s 4; 1969 ex.s. c 200 s 1.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

RCW 50.32.030 Appeal from order and notice of assessment. When an order and notice of assessment has been served upon or mailed to a delinquent employer, as heretofore provided, such employer may within thirty days thereafter file a petition in writing with the appeal tribunal, stating that such assessment is unjust or incorrect and requesting a hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the employment security department. If no such petition be filed with the appeal tribunal within thirty days, the assessment shall be conclusively deemed to be just and correct: PROVIDED, That in such cases, and in cases where payment of contributions, interest, or penalties has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of a petition on a disputed assessment with the appeal tribunal shall stay the distraint and sale proceeding provided for in this title until a final decision thereon shall have been made,

but the filing of such petition shall not affect the right of the commissioner to perfect a lien, as provided by this title, upon the property of the employer. The filing of a petition on a disputed assessment shall stay the accrual of interest and penalties on the disputed contributions until a final decision shall have been made thereon.

Within thirty days after notice of denial of refund or adjustment has been mailed or delivered (whichever is the earlier) to an employer, the employer may file a petition in writing with the appeal tribunal for a hearing thereon: PROVIDED, That this right shall not apply in those cases in which assessments have been appealed from and have become final. The petitioner shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said thirty days, the determination of the commissioner as stated in said notice shall be final. [1987 c 111 s 6; 1987 c 61 s 2; 1983 1st ex.s. c 23 s 20; 1959 c 266 s 7; 1949 c 214 s 23; 1945 c 35 s 119; Rem. Supp. 1949 s 9998-257.]

Reviser's note: This section was amended by 1987 c 61 s 2 and by 1987 c 111 s 6, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Conflict with federal requirements—Severability—Effective date—1987 c 111: See notes following RCW 50.12.220.

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

RCW 50.32.040 Benefit appeal procedure. In any proceeding before an appeal tribunal involving:

(1) A dispute of an individual's initial determination, determination of allowance or denial of allowance of benefits, or redetermination of allowance or denial of benefits, all matters covered by such initial determination, determination, or redetermination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

(2) An individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice in accordance with RCW 34.05.434.

(3) An appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner. [2023 c 85 s 1; 2003 2nd sp.s. c 4 s 32; 1989 c 175 s 117; 1987 c 61 s 3; 1981 c 35 s 10; 1973 c 73 s 8; 1945 c 35 s 120; Rem. Supp. 1945 s 9998-258. Prior: 1943 c 127 s 4; 1941 c 253 s 4; 1939 c 214 s 4; 1937 c 162 s 6.]

Conflict with federal requirements—2023 c 85: "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." [2023 c 85 s 2.]

Conflict with federal requirements—Severability—Effective date—2003 2nd sp.s. c 4: See notes following RCW 50.01.010.

Effective date—1989 c 175: See note following RCW 34.05.010.

Severability—1981 c 35: See note following RCW 50.22.030.

Effective dates—1973 c 73: See note following RCW 50.04.030.

RCW 50.32.050 Contributions appeal procedure. In any proceeding before an appeal tribunal involving an appeal from a disputed order and notice of assessment (for contributions, interest, or penalties due) a disputed denial of refund or adjustment (of contributions, interest, or penalties paid) or a disputed experience rating credit, the appeal tribunal, after affording the parties a reasonable opportunity for hearing, shall affirm, modify or set aside the notice of assessment, denial of refund or experience rating credit. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor which shall be deemed to be the final decision on the order and notice of assessment, denial of refund or experience rating credit, as the case may be, unless within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner. [1987 c 61 s 4; 1983 1st ex.s. c 23 s 21; 1949 c 214 s 24; 1945 c 35 s 121; Rem. Supp. 1949 s 9998-259.]

Conflict with federal requirements—Effective dates—Construction—1983 1st ex.s. c 23: See notes following RCW 50.04.073.

Review by commissioner: RCW 50.32.070.

RCW 50.32.060 Conduct of appeal hearings. The manner in which any dispute shall be presented to the appeal tribunal, and the conduct of hearings and appeals, shall be in accordance with regulations prescribed by the commissioner for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all appeal tribunal proceedings. All testimony at any appeal tribunal hearing shall be recorded, but need not be transcribed unless further appeal is taken. [1945 c 35 s 122; Rem. Supp. 1945 s 9998-260.]

RCW 50.32.070 Petition for review by commissioner. Within thirty days from the date of notification or mailing, whichever is the earlier, of any decision of an appeal tribunal, the commissioner on his or her own order may, or upon petition of any interested party shall, take jurisdiction of the proceedings for the purpose of review thereof. Appeal from any decision of an appeal tribunal may be perfected so as to prevent finality of such decision if, within thirty days from the date of mailing the appeal tribunal decision, or notification thereof, whichever is the earlier, a petition in writing for review by the commissioner is received by the commissioner or by such representative of the commissioner as the commissioner by regulation shall prescribe. The commissioner may also prevent finality of any decision of an appeal tribunal and take jurisdiction of the proceedings for his or her review thereof by entering an order so providing on his or her own motion and mailing a copy thereof to the interested parties within the same period allowed herein for receipt of a petition for review. The time limit provided herein for the commissioner's assumption of jurisdiction on his or her own motion for review shall be deemed to be jurisdictional. [1987 c 61 s 5; 1975 1st ex.s. c 228 s 5; 1947 c 215 s 31; 1945 c 35 s 123; Rem. Supp. 1947 s 9998-261.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

RCW 50.32.075 Waiver of time for appeal or petition. For good cause shown the appeal tribunal or the commissioner may waive the time limitations for administrative appeals or petitions set forth in the provisions of this title. [1975 1st ex.s. c 228 s 16.]

Effective date—1975 1st ex.s. c 228: See note following RCW 50.04.355.

RCW 50.32.080 Commissioner's review procedure. After having acquired jurisdiction for review, the commissioner shall review the proceedings in question. Prior to rendering his or her decision, the commissioner may order the taking of additional evidence by an appeal tribunal to be made a part of the record in the case. Upon the basis of evidence submitted to the appeal tribunal and such additional evidence as the commissioner may order to be taken, the commissioner shall render his or her decision in writing affirming, modifying, or setting aside the decision of the appeal tribunal. Alternatively, the commissioner may order further proceedings to be held before the appeal tribunal, upon completion of which the appeal tribunal shall issue a decision in writing affirming, modifying, or setting aside its previous decision. The new decision may be appealed under RCW 50.32.070. The commissioner shall mail his or her decision to the interested parties at their last known addresses. [2010 c 8 s 13037; 1982 1st ex.s. c 18 s 8; 1945 c 35 s 124; Rem. Supp. 1945 s 9998-262.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

RCW 50.32.090 Finality of commissioner's decision. Any decision of the commissioner involving a review of an appeal tribunal decision, in the absence of a petition therefrom as provided in chapter 34.05 RCW, becomes final thirty days after service. The commissioner shall be deemed to be a party to any judicial action involving any such decision and shall be represented in any such judicial action by the attorney general. [1989 c 175 s 118; 1973 1st ex.s. c 158 s 15; 1945 c 35 s 125; Rem. Supp. 1945 s 9998-263.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

Procedure for judicial review: RCW 50.32.120.

RCW 50.32.095 Commissioner's decisions as precedents—Publication. The commissioner may designate certain commissioner's decisions as precedents. The commissioner's decisions designated as precedents shall be published and made available to the public by the department. [1982 1st ex.s. c 18 s 9.]

Severability—Conflict with federal requirements—1982 1st ex.s. c 18: See notes following RCW 50.12.200.

RCW 50.32.097 Applicability of finding, determination, etc., to other action. Any finding, determination, conclusion, declaration, or final order made by the commissioner, or his or her representative or delegate, or by an appeal tribunal, administrative law judge, reviewing officer, or other agent of the department for the purposes of Title 50 RCW, shall not be conclusive, nor binding, nor admissible as evidence in any separate action outside the scope of Title 50 RCW between an individual and the individual's present or prior employer before an arbitrator, court, or judge of this state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts or was reviewed pursuant to RCW 50.32.120. [1988 c 28 s 1.]

RCW 50.32.100 Costs. In all proceedings provided by this title prior to court review involving dispute of an individual's initial determination, or claim for waiting period credit, or for benefits, the fees of all witnesses attending such proceedings pursuant to subpoena shall be paid at the rate fixed by such regulation as the commissioner shall prescribe and such fees and all costs of such proceedings otherwise chargeable to such individual, except charges for services rendered by counsel or other agent representing such individual, shall be paid out of the unemployment compensation administration fund. In all other respects and in all other proceedings under this title the rule in civil cases as to costs and attorney fees shall apply: PROVIDED, That cost bills may be served and filed and costs shall be taxed in accordance with such regulation as the commissioner shall prescribe. [1945 c 35 s 126; Rem. Supp. 1945 s 9998-264.]

Costs and attorneys' fees: Chapter 4.84 RCW.

RCW 50.32.110 Fees for administrative hearings. No individual shall be charged fees of any kind in any proceeding involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits, under this title by the commissioner or his or her representatives, or by an appeal tribunal, or any court, or any officer thereof. Any individual in any such proceeding before the commissioner or any appeal tribunal may be represented by counsel or other duly authorized agent who shall neither charge nor receive a fee for such services in excess of an amount found reasonable by the officer conducting such proceeding. [2010 c 8 s 13038; 1945 c 35 s 127; Rem. Supp. 1945 s 9998-265.]

RCW 50.32.120 Procedure for judicial review. Judicial review of a decision of the commissioner involving the review of an appeals tribunal decision may be had only in accordance with the procedural requirements of RCW 34.05.570. [1973 1st ex.s. c 158 s 16; 1971 c 81 s 119; 1945 c 35 s 128; Rem. Supp. 1945 s 9998-266. Prior: 1943 c 127 s 4; 1941 c 253 s 4; 1939 c 214 s 4; 1937 c 162 s 6.]

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

Appeals: Chapter 4.88 RCW.

RCW 50.32.130 Undertakings on seeking judicial review. No bond of any kind shall be required of any individual seeking judicial review from a commissioner's decision affecting such individual's application for initial determination or claim for waiting period credit or for benefits.

No commissioner's decision shall be stayed by a petition for judicial review unless the petitioning employer shall first deposit an undertaking in an amount theretofore deemed by the commissioner to be due, if any, from the petitioning employer, together with interest thereon, if any, with the commissioner or in the registry of the court: PROVIDED, HOWEVER, That this section shall not be deemed to authorize a stay in the payment of benefits to an individual when such individual has been held entitled thereto by a decision of the commissioner which decision either affirms, reverses, or modifies a decision of an appeals tribunal. [1973 1st ex.s. c 158 s 17; 1971 c 81 s 120; 1945 c 35 s 129; Rem. Supp. 1945 s 9998-267. Prior: 1943 c 127 s 4; 1941 c 253 s 4.]

Rules of court: Cf. Title 8 RAP, RAP 18.22.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

RCW 50.32.140 Interstate petitions to Thurston county. RCW 34.05.514 to the contrary notwithstanding, petitions to the superior court from decisions of the commissioner dealing with the applications

or claims relating to benefit payments which were filed outside of this state with an authorized representative of the commissioner shall be filed with the superior court of Thurston county which shall have the original venue of such appeals. [1989 c 175 s 119; 1973 1st ex.s. c 158 s 18; 1945 c 35 s 130; Rem. Supp. 1945 s 9998-268.]

Effective date—1989 c 175: See note following RCW 34.05.010.

Effective date—1973 1st ex.s. c 158: See note following RCW 50.08.020.

RCW 50.32.150 Jurisdiction of court. In all court proceedings under or pursuant to this title the decision of the commissioner shall be prima facie correct, and the burden of proof shall be upon the party attacking the same.

If the court shall determine that the commissioner has acted within his or her power and has correctly construed the law, the decision of the commissioner shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the superior court shall refer the same to the commissioner with an order directing him or her to proceed in accordance with the findings of the court.

Whenever any order and notice of assessment shall have become final in accordance with the provisions of this title, the court shall upon application of the commissioner enter a judgment in the amount provided for in said order and notice of assessment, and said judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court. [2010 c 8 s 13039; 1945 c 35 s 131; Rem. Supp. 1945 s 9998-269. Prior: 1941 c 253 s 4.]

Judgments

entry of: Chapter 4.64 RCW.

generally: Chapter 4.56 RCW.

RCW 50.32.160 Attorneys' fees. It shall be unlawful for any attorney engaged in any appeal to the courts on behalf of an individual involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits to charge or receive any fee therein in excess of a reasonable fee to be fixed by the superior court in respect to the services performed in connection with the appeal taken thereto and to be fixed by the supreme court or the court of appeals in the event of appellate review, and if the decision of the commissioner shall be reversed or modified, such fee and the costs shall be payable out of the unemployment compensation administration fund. In the allowance of fees the court shall give consideration to the provisions of this title in respect to fees pertaining to proceedings involving an individual's application for initial determination, claim for waiting period credit, or claim for benefits. In other respects the practice in civil cases shall apply. [1988 c 202 s 48; 1971 c 81 s 121; 1945 c 35 s 132; Rem. Supp. 1945 s 9998-270. Prior: 1941 c 253 s 4.]

Severability—1988 c 202: See note following RCW 2.24.050.

Attorneys' fees: Chapter 4.84 RCW.

Costs: RCW 50.32.100.

Costs on appeal: Chapter 4.84 RCW.

RCW 50.32.170 Decision final by agreement. No appeal from the decision of an appeal tribunal, or of the commissioner, or of any court in any proceedings provided by this title may be taken subsequent to the filing with the appeal tribunal, commissioner, or court which rendered the decision, within the time allowed for appeal, of an agreement in writing approved by all interested parties to the proceedings, providing that no appeal will be taken from such decision. The provisions of this section shall be jurisdictional. [1945 c 35 s 133; Rem. Supp. 1945 s 9998-271.]

RCW 50.32.180 Remedies of title exclusive. The remedies provided in this title for determining the justness or correctness of assessments, refunds, adjustments, or claims shall be exclusive and no court shall entertain any action to enjoin an assessment or require a refund or adjustment except in accordance with the provisions of this title. Matters which may be determined by the procedures set out in this title shall not be the subject of any declaratory judgment. [1945 c 35 s 134; Rem. Supp. 1945 s 9998-272.]

RCW 50.32.190 Costs, charges, and expenses. Whenever any appeal is taken from any decision of the commissioner to any court, all expenses and costs incurred therein by said commissioner, including court reporter costs and attorneys' fees and all costs taxed against such commissioner, shall be paid out of the unemployment compensation administration fund.

Neither the commissioner nor the state shall be charged any fee for any service rendered in connection with litigation under the unemployment compensation act by the clerk of any court. [1945 c 35 s 135; Rem. Supp. 1945 s 9998-273.]