
ENGROSSED SUBSTITUTE HOUSE BILL 1893

State of Washington

68th Legislature

2024 Regular Session

By House Labor & Workplace Standards (originally sponsored by Representatives Doglio, Berry, Fosse, Reeves, Farivar, Hackney, Ryu, Ortiz-Self, Orwall, Callan, Macri, Goodman, Senn, Slatter, Riccelli, Tharinger, Bronoske, Ramel, Wylie, Pollet, Cortes, Chopp, Bergquist, Berg, Fey, Donaghy, Reed, Street, Stonier, Kloba, Leavitt, Mena, Simmons, Morgan, Alvarado, Walen, Taylor, Peterson, Ormsby, Stearns, Thai, Bateman, Duerr, Ramos, Rule, Gregerson, Lekanoff, Nance, Santos, Shavers, and Davis)

READ FIRST TIME 01/30/24.

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; adding a new section to chapter 50.20 RCW; and
4 creating a new section.

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 ~~multi-employer bargaining unit and who has locked out the employees~~
15 ~~at the factory, establishment, or other premises at which the~~
16 ~~individual is or was last employed after one member of the multi-~~
17 ~~employer bargaining unit has been struck by its employees as a result~~
18 ~~of the multi-employer 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 prohibited by federal or state law or
18 court order; or

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

20 (b) When the disqualification ends, the individual is subject to
21 the one week waiting period as provided in RCW 50.20.010 and any
22 benefits must be calculated in accordance with this chapter. However,
23 if an individual is unemployed due to a strike at the separating
24 employer's factory, establishment, or other premises at which the
25 individual is or was last employed, the individual may receive weekly
26 benefits for no more than four calendar weeks, subject to other
27 limitations provided in this title.

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

30 (1)(a) An experience rating account shall be established and
31 maintained for each employer, except employers as described in RCW
32 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
33 payments in lieu of contributions, taxable local government employers
34 as described in RCW 50.44.035, and those employers who are required
35 to make payments in lieu of contributions, based on existing records
36 of the employment security department.

37 (b) Benefits paid to an eligible individual shall be charged to
38 the experience rating accounts of each of such individual's employers
39 during the individual's base year in the same ratio that the wages

1 paid by each employer to the individual during the base year bear to
2 the wages paid by all employers to that individual during that base
3 year, except as otherwise provided in this section.

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

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

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

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

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

22 (2) The legislature finds that certain benefit payments, in whole
23 or in part, should not be charged to the experience rating accounts
24 of employers except those employers described in RCW 50.44.010,
25 50.44.030, and 50.50.030 who have properly elected to make payments
26 in lieu of contributions, taxable local government employers
27 described in RCW 50.44.035, and those employers who are required to
28 make payments in lieu of contributions, as follows:

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

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

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

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

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

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

10 (e) Benefits paid to an individual who qualifies for benefits
11 under RCW 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for
12 separation that was necessary because the care for a child or a
13 vulnerable adult in the claimant's care is inaccessible, (iv), (xi),
14 (xii), or (xiii), or (3), as applicable, shall not be charged to the
15 experience rating account of any contribution paying employer.

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

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

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

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

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

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

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

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

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

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

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

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

36 (vi) Worked for an employer for 20 weeks or less, and was laid
37 off at the end of temporary employment when that employee temporarily
38 replaced a permanent employee receiving family or medical leave
39 benefits under Title 50A RCW, and the layoff is due to the return of

1 that permanent employee. This subsection (3)(a)(vi) applies to claims
2 with an effective date on or after January 1, 2020; or

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

5 (b) The employer requesting relief of charges under this
6 subsection must request relief in writing within 30 days following
7 mailing to the last known address of the notification of the valid
8 initial determination of such claim, stating the date and reason for
9 the separation or the circumstances of continued employment. The
10 commissioner, upon investigation of the request, shall determine
11 whether relief should be granted.

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

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

33 (a) For the purposes of this subsection, "adequately" means
34 providing accurate information of sufficient quantity and quality
35 that would allow a reasonable person to determine eligibility for
36 benefits.

37 (b)(i) For the purposes of this subsection, "pattern" means a
38 benefit payment was made because the employer or employer's agent
39 failed to respond timely or adequately to a written request of the
40 department for information relating to a claim or claims without

1 establishing good cause for the failure, if the greater of the
2 following calculations for an employer is met:

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

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

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

9 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.20
10 RCW to read as follows:

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

18 NEW SECTION. **Sec. 4.** If any part of this act is found to be in
19 conflict with federal requirements that are a prescribed condition to
20 the allocation of federal funds to the state or the eligibility of
21 employers in this state for federal unemployment tax credits, the
22 conflicting part of this act is inoperative solely to the extent of
23 the conflict, and this finding or determination does not affect the
24 operation of the remainder of this act. Rules adopted under this act
25 must meet federal requirements that are a necessary condition to the
26 receipt of federal funds by the state or the granting of federal
27 unemployment tax credits to employers in this state.

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