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ENGROSSED SENATE BILL 6480

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State of Washington

53rd Legislature

1994 Regular Session

By Senators Moore, Vognild, Prentice, Sheldon, Pelz, Nelson, Sutherland and McAuliffe

Read first time 01/24/94. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to unemployment compensation; amending RCW  
2 50.16.094, 50.22.090, 50.29.020, and 50.29.062; and adding a new  
3 section to chapter 50.20 RCW.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 50.20 RCW  
6 to read as follows:

7 The employment security department shall report to the standing  
8 committees of the legislature no later than July 1, 1995, regarding any  
9 updating of the department's computer technology that is necessary to  
10 or could address eliminating or reducing the need to make conditional  
11 payments.

12 **Sec. 2.** RCW 50.16.094 and 1993 c 226 s 6 are each amended to read  
13 as follows:

14 An individual may be eligible for applicable employment security  
15 benefits while participating in work force training. Eligibility is at  
16 the discretion of the commissioner of employment security after  
17 submitting a commissioner-approved training waiver and developing a  
18 detailed individualized training plan.

1       (~~Benefits paid under this section may not be charged to the~~  
2 ~~experience rating accounts of individual employers.~~)

3       The commissioner shall adopt rules as necessary to implement this  
4 section.

5       **Sec. 3.** RCW 50.22.090 and 1993 c 316 s 10 are each amended to read  
6 as follows:

7       (1) An additional benefit period is established for counties  
8 identified under subsection (2) of this section beginning on the first  
9 Sunday after July 1, 1991, and for the forest products industry  
10 beginning with the third week after the first Sunday after July 1,  
11 1991. Benefits shall be paid as provided in subsection (3) of this  
12 section to exhaustees eligible under subsection (4) of this section.

13       (2) The additional benefit period applies to counties having a  
14 population of less than five hundred thousand beginning with the third  
15 week after a week in which the commissioner determines that a county  
16 meets two of the following three criteria, as determined by the  
17 department, for the most recent year in which such data is available:

18       (a) A lumber and wood products employment location quotient at or above  
19 the state average; (b) projected or actual direct lumber and wood  
20 products job losses of one hundred positions or more, except counties  
21 having a population greater than two hundred thousand but less than  
22 five hundred thousand must have direct lumber and wood products job  
23 losses of one thousand positions or more; or (c) an annual unemployment  
24 rate twenty percent or more above the state average. The additional  
25 benefit period for a county may end no sooner than fifty-two weeks  
26 after the additional benefit period begins.

27       (3) Additional benefits shall be paid as follows:

28       (a) No new claims for additional benefits shall be accepted for  
29 weeks beginning after July 1, 1995, but for claims established on or  
30 before July 1, 1995, weeks of unemployment occurring after July 1,  
31 1995, shall be compensated as provided in this section.

32       (b) The total additional benefit amount shall be one hundred four  
33 times the individual's weekly benefit amount, reduced by the total  
34 amount of regular benefits and extended benefits paid, or deemed paid,  
35 with respect to the benefit year. Additional benefits shall not be  
36 payable for weeks more than two years beyond the end of the benefit  
37 year of the regular claim for an individual whose benefit year ends on  
38 or after July 27, 1991, and shall not be payable for weeks ending on or

1 after two years after March 26, 1992, for individuals who become  
2 eligible as a result of chapter 47, Laws of 1992.

3 (c) Notwithstanding the provisions of (b) of this subsection,  
4 individuals will be entitled to up to five additional weeks of benefits  
5 following the completion or termination of training.

6 (d) The weekly benefit amount shall be calculated as specified in  
7 RCW 50.22.040.

8 (e) Benefits paid under this section shall be paid under the same  
9 terms and conditions as regular benefits (~~and shall not be charged to~~  
10 ~~the experience rating account of individual employers~~). The  
11 additional benefit period shall be suspended with the start of an  
12 extended benefit period, or any totally federally funded benefit  
13 program, with eligibility criteria and benefits comparable to the  
14 program established by this section, and shall resume the first week  
15 following the end of the federal program.

16 (f) The amendments in chapter 316, Laws of 1993 affecting  
17 subsection (3) (b) and (c) of this section shall apply in the case of  
18 all individuals determined to be monetarily eligible under this section  
19 without regard to the date eligibility was determined.

20 (4) An additional benefit eligibility period is established for any  
21 exhaustee who:

22 (a)(i) At the time of last separation from employment, resided in  
23 or was employed in a county identified under subsection (2) of this  
24 section; or

25 (ii) During his or her base year, earned wages in at least six  
26 hundred eighty hours in the forest products industry, which shall be  
27 determined by the department but shall include the industries assigned  
28 the major group standard industrial classification codes "24" and "26"  
29 and the industries involved in the harvesting and management of logs,  
30 transportation of logs and wood products, processing of wood products,  
31 and the manufacturing and distribution of wood processing and logging  
32 equipment. The commissioner may adopt rules further interpreting the  
33 industries covered under this subsection. For the purposes of this  
34 subsection, "standard industrial classification code" means the code  
35 identified in RCW 50.29.025(6)(c); and

36 (b)(i) Has received notice of termination or layoff; and

37 (ii) Is unlikely to return to employment in his or her principal  
38 occupation or previous industry because of a diminishing demand within

1 his or her labor market for his or her skills in the occupation or  
2 industry; and

3 (c)(i)(A) Is notified by the department of the requirements of this  
4 section and develops an individual training program that is submitted  
5 to the commissioner for approval not later than sixty days after the  
6 individual is notified of the requirements of this section, and enters  
7 the approved training program not later than ninety days after the date  
8 of the individual's termination or layoff, or ninety days after July 1,  
9 1991, whichever is later, unless the department determines that the  
10 training is not available during the ninety-day period, in which case  
11 the individual shall enter training as soon as it is available; or

12 (B) Is unemployed as the result of a plant closure that occurs  
13 after November 1, 1992, in a county identified under subsection (2) of  
14 this section, did not comply with the requirements of (c)(i)(A) of this  
15 subsection due to good cause as demonstrated to the department, such as  
16 ambiguity over possible sale of the plant, develops a training program  
17 that is submitted to the commissioner for approval not later than sixty  
18 days from a date determined by the department to accommodate the good  
19 cause, and enters the approved training program not later than ninety  
20 days after the revised date established by the department, unless the  
21 department determines that the training is not available during the  
22 ninety-day period, in which case the individual shall enter training as  
23 soon as it is available; or

24 (ii) Is enrolled in training approved under this section on a full-  
25 time basis and maintains satisfactory progress in the training; and

26 (d) Does not receive a training allowance or stipend under the  
27 provisions of any federal or state law.

28 (5) For the purposes of this section:

29 (a) "Training program" means:

30 (i) A remedial education program determined to be necessary after  
31 counseling at the educational institution in which the individual  
32 enrolls pursuant to his or her approved training program; or

33 (ii) A vocational training program at an educational institution  
34 that:

35 (A) Is training for a labor demand occupation;

36 (B) Is likely to facilitate a substantial enhancement of the  
37 individual's marketable skills and earning power; and

38 (C) Does not include on-the-job training or other training under  
39 which the individual is paid by an employer for work performed by the

1 individual during the time that the individual receives additional  
2 benefits under subsection (1) of this section.

3 (b) "Educational institution" means an institution of higher  
4 education as defined in RCW 28B.10.016 or an educational institution as  
5 defined in RCW 28C.04.410(3).

6 (c) "Training allowance or stipend" means discretionary use, cash-  
7 in-hand payments available to the individual to be used as the  
8 individual sees fit, but does not mean direct or indirect compensation  
9 for training costs, such as tuition or books and supplies.

10 (6) The commissioner shall adopt rules as necessary to implement  
11 this section.

12 (7) For the purpose of this section, an individual who has a  
13 benefit year beginning after January 1, 1989, and ending before July  
14 27, 1991, shall be treated as if his or her benefit year ended on July  
15 27, 1991.

16 **Sec. 4.** RCW 50.29.020 and 1993 c 483 s 19 are each amended to read  
17 as follows:

18 (1) An experience rating account shall be established and  
19 maintained for each employer, except employers as described in RCW  
20 50.44.010 and 50.44.030 who have properly elected to make payments in  
21 lieu of contributions, taxable local government employers as described  
22 in RCW 50.44.035, and those employers who are required to make payments  
23 in lieu of contributions, based on existing records of the employment  
24 security department. Benefits paid to any eligible individuals shall  
25 be charged to the experience rating accounts of each of such  
26 individual's employers during the individual's base year in the same  
27 ratio that the wages paid by each employer to the individual during the  
28 base year bear to the wages paid by all employers to that individual  
29 during that base year, except as otherwise provided in this section.

30 (2) The legislature finds that certain benefit payments, in whole  
31 or in part, should not be charged to the experience rating accounts of  
32 employers except those employers described in RCW 50.44.010 and  
33 50.44.030 who have properly elected to make payments in lieu of  
34 contributions, taxable local government employers described in RCW  
35 50.44.035, and those employers who are required to make payments in  
36 lieu of contributions, as follows:

1 (a) Benefits paid to any individuals later determined to be  
2 ineligible shall not be charged to the experience rating account of any  
3 contribution paying employer.

4 ~~((Benefits paid to an individual under the provisions of RCW  
5 50.12.050 shall not be charged to the account of any contribution  
6 paying employer if the wage credits earned in this state by the  
7 individual during his or her base year are less than the minimum amount  
8 necessary to qualify the individual for unemployment benefits.~~

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

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

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

16 ~~((d))~~ (c) Benefits paid which represent the state's share of  
17 benefits payable under chapter 50.22 RCW shall not be charged to the  
18 experience rating account of any contribution paying employer.

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

24 ~~((f))~~ (e) In the case of individuals identified under RCW  
25 50.20.015, benefits paid with respect to a calendar quarter, which  
26 exceed the total amount of wages earned in the state of Washington in  
27 the higher of two corresponding calendar quarters included within the  
28 individual's determination period, as defined in RCW 50.20.015, shall  
29 not be charged to the experience rating account of any contribution  
30 paying employer.

31 ~~((g) Benefits paid to an individual who does not successfully  
32 complete an approved on the job training program under RCW 50.12.240  
33 may not be charged to the experience rating account of the  
34 contribution paying employer who provided the approved on the job  
35 training.))~~

36 (3)(a) Beginning July 1, 1985, a contribution-paying base year  
37 employer, not otherwise eligible for relief of charges for benefits  
38 under this section, may receive such relief if the benefit charges  
39 result from payment to an 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 connected with his or her work  
4 not a result of inability to meet the minimum job requirements;

5 (iii) Is unemployed as a result of closure or severe curtailment of  
6 operation at the employer's plant, building, work site, or other  
7 facility. This closure must be for reasons directly attributable to a  
8 catastrophic occurrence such as fire, flood, or other natural disaster;  
9 or

10 (iv) Continues to be employed on a regularly scheduled permanent  
11 part-time basis by a base year employer and who at some time during the  
12 base year was concurrently employed and subsequently separated from at  
13 least one other base year employer. Benefit charge relief ceases when  
14 the employment relationship between the employer requesting relief and  
15 the claimant is terminated. This subsection does not apply to shared  
16 work employers under chapter 50.60 RCW.

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

24 **Sec. 5.** RCW 50.29.062 and 1989 c 380 s 81 are each amended to read  
25 as follows:

26 Predecessor and successor employer contribution rates shall be  
27 computed in the following manner:

28 (1) If the successor is an employer, as defined in RCW 50.04.080,  
29 at the time of the transfer, ~~((his or her))~~ its contribution rate shall  
30 remain unchanged for the remainder of the rate year in which the  
31 transfer occurs. From and after January 1 following the transfer, the  
32 successor's contribution rate for each rate year shall be based on  
33 ~~((his or her))~~ its experience with payrolls and benefits including the  
34 experience of the acquired business or portion of a business from the  
35 date of transfer, as of the regular computation date for that rate  
36 year.

37 (2) If the successor is not an employer at the time of the  
38 transfer, ~~((he or she))~~ it shall pay contributions at the ~~((rate class~~

1 assigned to the predecessor employer at the time of the transfer for  
2 the remainder for that rate year and continuing until such time as he  
3 or she qualifies for a different rate in his or her own right)) lowest  
4 rate as determined by either of the following manners:

5 (a) At the rate class assigned to the predecessor employer at the  
6 time of the transfer for the remainder for that rate year. Any  
7 experience relating to the assignment of that rate class attributable  
8 to the predecessor is transferred to the successor; or

9 (b) At the contribution rate equal to the average industry rate as  
10 determined by the commissioner. However, the rate may not be less than  
11 one percent. Assignment of employers by the commissioner to industrial  
12 classification, for purposes of this subsection, must be in accordance  
13 with established classification practices found in the "Standard  
14 Industrial Classification Manual" issued by the federal office of  
15 management and budget to the third digit provided in the standard  
16 industrial classification code.

17 (3) If the successor is not an employer at the time of the transfer  
18 and simultaneously acquires the business or a portion of the business  
19 of two or more employers in different rate classes, ((his or her)) its  
20 rate from the date the transfer occurred until the end of that rate  
21 year and until ((he or she)) it qualifies in ((his or her)) its own  
22 right for a new rate, shall be the highest rate class applicable at the  
23 time of the acquisition to any predecessor employer who is a party to  
24 the acquisition.

25 (4) The contribution rate on any payroll retained by a predecessor  
26 employer shall remain unchanged for the remainder of the rate year in  
27 which the transfer occurs.

28 (5) In all cases, from and after January 1 following the transfer,  
29 the predecessor's contribution rate for each rate year shall be based  
30 on ((his or her)) its experience with payrolls and benefits as of the  
31 regular computation date for that rate year including the experience of  
32 the acquired business or portion of business up to the date of  
33 transfer: PROVIDED, That if all of the predecessor's business is  
34 transferred to a successor or successors, the predecessor shall not be  
35 a qualified employer until ((he or she)) it satisfies the requirements  
36 of a "qualified employer" as set forth in RCW 50.29.010.

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