
HOUSE BILL 2385

State of Washington

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By Representatives Heavey, Fuhrman, Orr, Jones, G. Cole, Franklin, Brumsickle, O'Brien, Lisk, Paris, Wineberry, Chandler, J. Kohl and Mitchell; by request of Employment Security Department

Read first time 01/15/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to unemployment compensation benefits; amending RCW
2 50.04.323, 50.20.098, and 50.20.130; creating a new section; and
3 providing an effective date.

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

5 **Sec. 1.** RCW 50.04.323 and 1983 1st ex.s. c 23 s 7 are each amended
6 to read as follows:

7 (1) The amount of benefits payable to an individual for any week
8 which begins after October 3, 1980, and which begins in a period with
9 respect to which such individual is receiving a governmental or other
10 pension, retirement or retired pay, annuity, or any other similar
11 periodic payment which is based on the previous work of such individual
12 shall be reduced (but not below zero) by an amount equal to the amount
13 of such pension, retirement or retired pay, annuity, or other payment,
14 which is reasonably attributable to such week: PROVIDED, That

1 (a) The requirements of this subsection shall apply to any pension,
2 retirement or retired pay, annuity, or other similar periodic payment
3 only if--

4 (i) Such pension, retirement or retired pay, annuity, or similar
5 payment is under a plan maintained (or contributed to) by a base period
6 employer; and

7 (ii) In the case of such a payment not made under the Social
8 Security Act or the Railroad Retirement Act of 1974 (or corresponding
9 provisions of prior law), services performed for such employer by the
10 individual after the beginning of the base period (or remuneration for
11 such services) affect eligibility for, or increase the amount of, such
12 pension, retirement or retired pay, annuity, or similar payment;
13 ((and))

14 (b) The amount of any such a reduction shall take into account
15 contributions made by the individual for the pension, retirement or
16 retired pay, annuity, or other similar periodic payment, in accordance
17 with regulations prescribed by the commissioner; and

18 (c) No deduction shall be made from the amount of benefits payable
19 for a week for individuals receiving federal social security pensions
20 to take into account the individual's contribution to the pension
21 program.

22 (2) In the event that a retroactive pension or retirement payment
23 covers a period in which an individual received benefits under the
24 provisions of this title, the amount in excess of the amount to which
25 such individual would have been entitled had such retirement or pension
26 payment been considered as provided in this section shall be
27 recoverable under RCW 50.20.190.

28 (3) A lump sum payment accumulated in a plan described in this
29 section paid to an individual eligible for such payment shall be

1 prorated over the life expectancy of the individual computed in
2 accordance with the commissioner's regulation.

3 (4) The resulting weekly benefit amount payable after reduction
4 under this section, if not a multiple of one dollar, shall be reduced
5 to the next lower multiple of one dollar.

6 (5) Any ambiguity in subsection (1) of this section should be
7 construed in a manner consistent with 26 U.S.C. Sec. 3304 (a)(15) as
8 last amended by P.L. 96-364.

9 **Sec. 2.** RCW 50.20.098 and 1989 c 92 s 1 are each amended to read
10 as follows:

11 (1) Benefits shall not be paid on the basis of services performed
12 by an alien unless the alien is an individual who (~~has been~~) was
13 lawfully admitted for permanent residence, was lawfully present for
14 purposes of performing such services, or otherwise (~~is~~) was
15 permanently residing in the United States under color of law at the
16 time such services were performed (including an alien who (~~is~~) was
17 lawfully present in the United States as a result of the application of
18 (~~8 U.S.C. Sec. 1153(a)(7) or~~) the provisions of 8 U.S.C. Sec.
19 1182(d)(5): PROVIDED, That any modifications to 26 U.S.C. Sec.
20 3304(a)(14) as provided by PL 94-566 which specify other conditions or
21 other effective date than stated herein for the denial of benefits
22 based on services performed by aliens and which modifications are
23 required to be implemented under state law as a condition for full tax
24 credit against the tax imposed by 26 U.S.C. Sec. 3301 shall be deemed
25 applicable under this section.

26 (2) Any data or information required of individuals applying for
27 benefits to determine whether benefits are not payable to them because
28 of their alien status shall be uniformly required from all applicants
29 for benefits.

1 (3) In the case of an individual whose application for benefits
2 would otherwise be approved, no determination that benefits to the
3 individual are not payable because of his or her alien status shall be
4 made except upon a preponderance of the evidence.

5 **Sec. 3.** RCW 50.20.130 and 1983 1st ex.s. c 23 s 12 are each
6 amended to read as follows:

7 If an eligible individual is available for work for less than a
8 full week, he or she shall be paid his or her weekly benefit amount
9 reduced by one-seventh of such amount for each day that he or she is
10 unavailable for work: PROVIDED, That if ((he)) the individual is
11 unavailable for work for three days or more of a week, he or she shall
12 be considered unavailable for the entire week.

13 Each eligible individual who is unemployed in any week shall be
14 paid with respect to such week a benefit in an amount equal to his or
15 her weekly benefit amount less seventy-five percent of that part of the
16 remuneration (if any) payable to him or her with respect to such week
17 which is in excess of ((five)) twenty-five dollars. Such benefit, if
18 not a multiple of one dollar, shall be reduced to the next lower
19 multiple of one dollar.

20 NEW SECTION. **Sec. 4.** If any part of this act is found to be
21 in conflict with federal requirements that are a prescribed condition
22 to the allocation of federal funds to the state, the conflicting part
23 of this act is inoperative solely to the extent of the conflict and
24 with respect to the agencies directly affected, and this finding does
25 not affect the operation of the remainder of this act in its
26 application to the agencies concerned. The rules under this act shall
27 meet federal requirements that are a necessary condition to the receipt
28 of federal funds by the state.

1 NEW SECTION. **Sec. 5.** This act shall take effect July 5, 1992,
2 for weeks of unemployment beginning on or after July 5, 1992.