
HOUSE BILL 1241

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By Representatives Jones, Heavey, King, Franklin, G. Cole, Romero, Brown, Veloria and Kessler

Read first time 01/20/93. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to the economic adjustment and assistance act;
2 adding a new chapter to Title 49 RCW; prescribing penalties; and
3 declaring an emergency.

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

5 NEW SECTION. **Sec. 1.** Unless the context clearly requires
6 otherwise, the definitions in this section apply throughout this
7 chapter.

8 (1) "Affected employee" means an employee who may reasonably be
9 expected to experience or who has experienced an employment loss as a
10 consequence of a business closure or employee layoff by his or her
11 employer whether or not the employee is or was employed at the single
12 site of employment being closed or at which layoffs are occurring.

13 (2) "Aggrieved employee" means an employee who has worked for the
14 employer ordering the business closure or employee layoff and who, as
15 a result of the failure by the employer to comply with section 2 of
16 this act, did not receive timely notice as required under section 2 of
17 this act either directly or through the worker's representative.

18 (3) "Business closure" means the permanent or temporary shutdown of
19 a single site of employment, or one or more facilities or operating

1 units within a single site of employment, if the shutdown results in an
2 employment loss at the single site of employment during any thirty-day
3 period of twenty-five or more employees, excluding part-time employees.

4 (4) "Employer" means any person, firm, corporation, partnership,
5 business trust, legal representative, or other business entity which
6 engages in any business, industry, profession, or activity in this
7 state and employs: (a) Fifty or more employees, excluding part-time
8 employees; or (b) fifty or more employees who in the aggregate work at
9 least two thousand hours per week, exclusive of hours of overtime.

10 (5) "Employment loss" means: (a) An employment termination, other
11 than a discharge for cause, voluntary departure, or retirement; (b) a
12 layoff exceeding six months; or (c) a reduction in hours of work of
13 more than fifty percent during each month of any six-month period.

14 (6) "Employee layoff" means a reduction in work force that is not
15 the result of a business closure and that results in an employment loss
16 at the single site of employment during any thirty-day period for (a)
17 at least thirty-three percent of the employees, excluding any part-time
18 employees, and at least twenty-five employees, excluding any part-time
19 employees; or (b) at least five hundred employees, excluding any part-
20 time employees. Layoffs of two or more groups of employees at a single
21 site of employment within any ninety-day period, any one of which is
22 below the limits stated in (a) or (b) of this subsection, shall be
23 aggregated and shall constitute an employment layoff under this section
24 if the aggregate is above the limit of (a) or (b) of this subsection,
25 unless the employer can show by a preponderance of the evidence that
26 each individual layoff resulted from separate and distinct causes.

27 (7) "Labor-management committee" means a committee voluntarily
28 formed pursuant to section 5 of this act to respond to actual or
29 prospective employee dislocations and that is the primary means to
30 oversee delivery of state and local resources to affected employees.

31 (8) "Part-time employee" means an employee who is employed for an
32 average of fewer than twenty hours per week or who has been employed
33 for fewer than six of the twelve months preceding the date on which
34 notice under section 2 of this act is required.

35 NEW SECTION. **Sec. 2.** (1) No employer shall order a business
36 closure or employee layoff until the end of a sixty-day period after
37 the employer serves written notice of the order to the representative
38 of the affected employees or, if none, to the affected employees, to

1 the dislocated worker unit in the employment security department, and
2 to the chief elected official of the unit of local government within
3 which jurisdiction the closing or layoff is to occur.

4 (2) If all or part of a business is sold, the seller of the
5 business is responsible for giving the notice required by this section
6 for any business closure or employee layoff occurring on or before the
7 effective date of the sale, and the buyer is responsible for giving the
8 notice for any closure or layoff occurring after the effective date of
9 the sale.

10 (3)(a) An employer that orders a business closure or employee
11 layoff in violation of this section is liable to each aggrieved
12 employee who suffers an employment loss as a result of the closure or
13 layoff for back pay for each day of violation. Back pay shall be
14 computed at a rate of compensation not less than the higher of: (i)
15 The average regular rate of compensation received by the employee
16 during the preceding three years of the employee's employment; or (ii)
17 the final regular rate of compensation received by the employee.

18 (b) The employer's liability under (a) of this subsection is for
19 the period of the violation, up to a maximum of sixty days, but in no
20 event for more than one-half the number of days the employee was
21 employed by the employer.

22 (c) The amount by which an employer is liable under (a) of this
23 subsection is reduced by:

24 (i) Any wages paid by the employer to the employee for the period
25 for the violation; and

26 (ii) Any voluntary and unconditional payment by the employer to the
27 employee that is not required by a legal obligation.

28 (4) An employer who violates the notice provisions of this section
29 with respect to a unit of local government shall be subject to a civil
30 penalty of not more than five hundred dollars for each day of the
31 violation. However, the penalty does not apply if the employer pays to
32 each aggrieved employee the amount for which the employer is liable to
33 that employee within three weeks from the date the employer orders the
34 closure or layoff.

35 (5) A person aggrieved by a violation of this chapter, including
36 the organization representing affected employees for collective
37 bargaining or the affected unit of local government, may bring suit on
38 his or her own behalf or on behalf of other persons similarly situated,
39 or both, in the superior court of the county in which the violation

1 occurred or in which the employer transacts business. The court may
2 allow costs and reasonable attorney's fees to the prevailing party.

3 (6) Upon request, an affected employee, or the organization
4 representing an affected employee for collective bargaining, is
5 entitled to information from his or her employer about business
6 closures or the number of employee layoffs ordered by the employer
7 within ninety days of the closure or layoff that affected the employee
8 making the request for information. A unit of local government in the
9 jurisdiction in which a business closure or employee layoff is to occur
10 is also entitled to information from the employer about closures or
11 layoffs occurring within ninety days of the ordered closure or layoff.

12 NEW SECTION. **Sec. 3.** (1) No notice under this chapter is required
13 if the business closure or employee layoff results from a natural
14 disaster, including but not limited to flood, fire, drought, or
15 earthquake.

16 (2) Before the conclusion of the sixty-day notice period specified
17 in section 2 of this act, an employer may order:

18 (a) The shutdown of a single site of employment if, as of the time
19 that the notice would have been required, the employer was actively
20 seeking capital or business which, if obtained, would have enabled the
21 employer to avoid or postpone the shutdown and the employer reasonably
22 and in good faith believed that giving the notice required would have
23 precluded the employer from obtaining the needed capital or business.

24 (b) A business closure or employee layoff if the closing or layoff
25 is caused by business circumstances that a reasonable employer would
26 not have foreseen based on information that the employer knew or should
27 have known on or after the date when the notice would have been
28 required.

29 NEW SECTION. **Sec. 4.** If a collective bargaining agreement
30 covering a site of employment that is subject to a business closure or
31 employee layoff requires greater employee protection than is required
32 by this chapter, the protections of the collective bargaining agreement
33 shall not be reduced or impaired by this chapter.

34 NEW SECTION. **Sec. 5.** (1) Promotion of labor-management committees
35 with full authority to obtain and oversee the services needed to meet
36 the needs of dislocated workers shall be the primary mechanism of the

1 state dislocated worker unit's response to business closure and
2 employee layoffs. The state dislocated worker unit shall report to the
3 appropriate committees of the legislature on the number of closure or
4 employee layoff notices received, the number of labor-management
5 committees established, and the number of dislocated workers served by
6 labor-management committees.

7 (2) Labor-management committees shall ordinarily include, but are
8 not limited to, the following:

9 (a) Shared and equal participation by employees and the employer;

10 (b) Shared financial participation between the company and the
11 state, using funds provided under federal law for this purpose, in
12 paying for the operating expenses of the committee;

13 (c) A committee chair to provide oversight, advice, and guidance to
14 the committee, who is jointly selected by the employee and employer
15 committee members, who is not employed by or under contract with the
16 employees or employer at the site, and who shall prepare a report on
17 the committee's activities;

18 (d) The ability to respond flexibly to the needs of affected
19 employees by devising and implementing a strategy for assessing the
20 employment and training needs for each dislocated worker, and for
21 obtaining and overseeing the services and assistance necessary to meet
22 those needs;

23 (e) A formal agreement, terminable at will by the employees or
24 their employer, and terminable for cause by the governor of the state
25 of Washington; and

26 (f) Local job identification activities by the chair and members of
27 the committee on behalf of the affected employees.

28 (3) The dislocated worker unit of the employment security
29 department shall promote the formation of labor-management committees
30 by providing:

31 (a) Immediate assistance in the establishment of the labor-
32 management committee, including providing immediate financial
33 assistance to cover the start-up costs of the committee and committee
34 effectiveness training using funds provided under federal law for this
35 purpose;

36 (b) A list of individuals from which the chair of the committee may
37 be selected;

1 (c) Technical advice as well as information on sources of
2 assistance, and liaison, with other public and private services and
3 programs; and

4 (d) Assistance in the selection of employee representatives if the
5 employees are not represented by a labor organization for collective
6 bargaining.

7 (4) The dislocated worker unit shall distribute all closure notices
8 within one week of receipt of the notice to the appropriate state
9 agencies and the local reemployment support center, if a center exists
10 in the community in which the closure or layoffs occur. The dislocated
11 worker unit shall exchange information and coordinate programs with
12 community-based organizations that assist dislocated workers.

13 NEW SECTION. **Sec. 6.** This act may be known and cited as the
14 economic adjustment and assistance act.

15 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall
16 constitute a new chapter in Title 49 RCW.

17 NEW SECTION. **Sec. 8.** This act is necessary for the immediate
18 preservation of the public peace, health, or safety, or support of the
19 state government and its existing public institutions, and shall take
20 effect immediately.

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