

2 ESHB 1821 - S COMM AMD

3 By Committee on Labor, Commerce & Trade

4 ADOPTED - 4/5/95

5 Strike everything after the enacting clause and insert the
6 following:

7 "Sec. 1. RCW 50.04.320 and 1986 c 21 s 1 are each amended to read
8 as follows:

9 (1) For the purpose of payment of contributions, "wages" means the
10 remuneration paid by one employer during any calendar year to an
11 individual in its employment under this title or the unemployment
12 compensation law of any other state in the amount specified in RCW
13 50.24.010. If an employer (hereinafter referred to as a successor
14 employer) during any calendar year acquires substantially all the
15 operating assets of another employer (hereinafter referred to as a
16 predecessor employer) or assets used in a separate unit of a trade or
17 business of a predecessor employer, and immediately after the
18 acquisition employs in the individual's trade or business an individual
19 who immediately before the acquisition was employed in the trade or
20 business of the predecessor employer, then, for the purposes of
21 determining the amount of remuneration paid by the successor employer
22 to the individual during the calendar year which is subject to
23 contributions, any remuneration paid to the individual by the
24 predecessor employer during that calendar year and before the
25 acquisition shall be considered as having been paid by the successor
26 employer.

27 (2) For the purpose of payment of benefits, "wages" means the
28 remuneration paid by one or more employers to an individual for
29 employment under this title during his base year: PROVIDED, That at
30 the request of a claimant, wages may be calculated on the basis of
31 remuneration payable. The department shall notify each claimant that
32 wages are calculated on the basis of remuneration paid, but at the
33 claimant's request a redetermination may be performed and based on
34 remuneration payable.

35 (3) For the purpose of payment of benefits and payment of
36 contributions, the term "wages" includes tips which are received after

1 January 1, 1987, while performing services which constitute employment,
2 and which are reported to the employer for federal income tax purposes.

3 (4)(a) "Remuneration" means all compensation paid for personal
4 services including commissions and bonuses and the cash value of all
5 compensation paid in any medium other than cash. The reasonable cash
6 value of compensation paid in any medium other than cash and the
7 reasonable value of gratuities shall be estimated and determined in
8 accordance with rules prescribed by the commissioner. Remuneration
9 does not include payments to members of a reserve component of the
10 armed forces of the United States, including the organized militia of
11 the state of Washington, for the performance of duty for periods not
12 exceeding seventy-two hours at a time.

13 (b) Previously accrued compensation, other than severance pay or
14 payments received pursuant to plant closure agreements, when assigned
15 to a specific period of time by virtue of a collective bargaining
16 agreement, individual employment contract, customary trade practice, or
17 request of the individual compensated, shall be considered remuneration
18 for the period to which it is assigned. Assignment clearly occurs when
19 the compensation serves to make the individual eligible for all regular
20 fringe benefits for the period to which the compensation is assigned.

21 (c) Settlements or other proceeds received by an individual as a
22 result of a negotiated settlement for termination of an employment
23 contract with a public agency prior to its expiration date shall be
24 considered remuneration. The proceeds shall be deemed assigned in the
25 same intervals and in the same amount for each interval as compensation
26 was allocated under the contract.

27 (d) Except as provided in (c) of this subsection, the provisions of
28 this (~~section~~) subsection (4) pertaining to the assignment of
29 previously accrued compensation shall not apply to individuals subject
30 to RCW 50.44.050.

31 **Sec. 2.** RCW 50.44.050 and 1990 c 33 s 587 are each amended to read
32 as follows:

33 Except as otherwise provided in subsections (1) through (4) of this
34 section, benefits based on services in employment covered by or
35 pursuant to this chapter shall be payable on the same terms and subject
36 to the same conditions as compensation payable on the basis of other
37 service subject to this title.

1 (1) Benefits based on service in an instructional, research or
2 principal administrative capacity for an educational institution shall
3 not be paid to an individual for any week of unemployment which
4 commences during the period between two successive academic years or
5 terms within an academic year (or, when an agreement provides instead
6 for a similar period between two regular but not successive terms
7 within an academic year, during such period) if such individual
8 performs such services in the first of such academic years or terms and
9 if there is a contract or reasonable assurance that such individual
10 will perform services in any such capacity for any educational
11 institution in the second of such academic years or terms. Any
12 employee of a common school district who is presumed to be reemployed
13 pursuant to RCW 28A.405.210 shall be deemed to have a contract for the
14 ensuing term.

15 (2) Benefits shall not be paid based on services in any other
16 capacity for an educational institution for any week of unemployment
17 which commences during the period between two successive academic years
18 or terms within an academic year, if such individual performs such
19 services in the first of such academic years or terms and there is a
20 reasonable assurance that such individual will perform such services in
21 the second of such academic years or terms: PROVIDED, That if benefits
22 are denied to any individual under this subsection and that individual
23 was not offered an opportunity to perform such services for the
24 educational institution for the second of such academic years or terms,
25 the individual is entitled to a retroactive payment of benefits for
26 each week for which the individual filed a timely claim for benefits
27 and for which benefits were denied solely by reason of this subsection.

28 (3) Benefits shall not be paid based on any services described in
29 subsections (1) and (2) of this section for any week of unemployment
30 which commences during an established and customary vacation period or
31 holiday recess if such individual performs such services in the period
32 immediately before such vacation period or holiday recess, and there is
33 a reasonable assurance that such individual will perform such services
34 in the period immediately following such vacation period or holiday
35 recess.

36 (4) Benefits shall not be paid (as specified in subsections (1),
37 (2), or (3) of this section) based on any services described in
38 subsections (1) or (2) of this section to any individual who performed
39 such services in an educational institution while in the employ of an

1 educational service district which is established pursuant to chapter
2 28A.310 RCW and exists to provide services to local school districts.

3 (5) As used in subsections (1) and (2) of this section, "academic
4 year" includes fall, winter, spring, and summer quarters and comparable
5 semesters unless, based upon objective criteria including enrollment
6 and staffing, the quarter or comparable semester is not in fact a part
7 of the academic year for the particular institution.

8 **Sec. 3.** RCW 50.44.053 and 1985 ex.s. c 5 s 9 are each amended to
9 read as follows:

10 The term "reasonable assurance," as used in RCW 50.44.050, means a
11 written, verbal, or implied agreement that the employee will perform
12 services in the same capacity during the ensuing academic year or term
13 as in the first academic year or term, provided that the agreement is
14 not contingent on enrollment, funding, or program changes. A person
15 shall not be deemed to be performing services "in the same capacity"
16 unless those services are rendered under the same terms or conditions
17 of employment in the ensuing year as in the first academic year or
18 term.

19 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
20 preservation of the public peace, health, or safety, or support of the
21 state government and its existing public institutions, and shall take
22 effect immediately."

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26 On page 1, line 2 of the title, after "contracts;" strike the
27 remainder of the title and insert "amending RCW 50.04.320, 50.44.050,
28 and 50.44.053; and declaring an emergency."

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