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HOUSE BILL 2562

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By Representatives Conway, O'Brien, Wood, Simpson, Kenney, Cody, Fromhold, Sullivan, Upthegrove, Eickmeyer, Chase, Edwards, Schual-Berke, Santos and Kirby

Read first time 01/21/2002. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to stimulating economic recovery by providing  
2 benefits to unemployed individuals; amending RCW 50.20.130, 50.20.010,  
3 50.20.070, 50.20.095, 50.20.140, 50.20.170, 50.20.180, 50.32.040,  
4 50.32.100, 50.32.110, 50.32.130, and 50.32.160; adding a new section to  
5 chapter 50.20 RCW; creating a new section; repealing RCW 50.20.020; and  
6 declaring an emergency.

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

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

10 No otherwise eligible individual shall be denied benefits for any  
11 week because the individual is available for, seeks, applies for, or  
12 accepts only part-time work of at least fifteen hours per week, instead  
13 of full-time work, by reason of the application of RCW 50.20.010(3),  
14 50.20.015, 50.20.080, or 50.22.020(1) relating to availability for work  
15 and active search for work, or failure to apply for or refusal to  
16 accept suitable work.

17 **Sec. 2.** RCW 50.20.130 and 1983 1st ex.s. c 23 s 12 are each  
18 amended to read as follows:

1 If an eligible individual is available for work for less than a  
2 full week, he shall be paid his weekly benefit amount reduced by one-  
3 seventh of such amount for each day that he is unavailable for work:  
4 PROVIDED, That if he is unavailable for work for three days or more of  
5 a week, he shall be considered unavailable for the entire week.

6 Each eligible individual who (~~(is unemployed)~~) has unemployment in  
7 any week shall ((be paid with respect to such week a benefit in an  
8 amount equal to his weekly benefit amount less seventy five percent of  
9 that part of the remuneration (if any) payable to him with respect to  
10 such week which is in excess of five dollars)) have the individual's  
11 weekly benefit amount reduced by the remuneration, if any, paid or  
12 payable that exceeds whichever is greater of the following amounts:

13 (1) Ten times the minimum hourly wage established under RCW  
14 49.46.020 or 29 U.S.C. 206, whichever is higher; or

15 (2) One-third of the individual's weekly benefit amount.

16 Such benefit, if not a multiple of one dollar, shall be reduced to  
17 the next lower multiple of one dollar.

18 **Sec. 3.** RCW 50.20.010 and 1995 c 381 s 1 are each amended to read  
19 as follows:

20 An unemployed individual shall be eligible to receive (~~(waiting~~  
21 ~~period credits or)) benefits with respect to any week in his or her  
22 eligibility period only if the commissioner finds that:~~

23 (1) He or she has registered for work at, and thereafter has  
24 continued to report at, an employment office in accordance with such  
25 regulation as the commissioner may prescribe, except that the  
26 commissioner may by regulation waive or alter either or both of the  
27 requirements of this subdivision as to individuals attached to regular  
28 jobs and as to such other types of cases or situations with respect to  
29 which the commissioner finds that the compliance with such requirements  
30 would be oppressive, or would be inconsistent with the purposes of this  
31 title;

32 (2) He or she has filed an application for an initial determination  
33 (~~(and made a claim for waiting period credit))~~ or for benefits in  
34 accordance with the provisions of this title;

35 (3) He or she is able to work, and is available for work in any  
36 trade, occupation, profession, or business for which he or she is  
37 reasonably fitted. To be available for work an individual must be  
38 ready, able, and willing, immediately to accept any suitable work which

1 may be offered to him or her and must be actively seeking work pursuant  
2 to customary trade practices and through other methods when so directed  
3 by the commissioner or the commissioner's agents;

4 (4) (~~He or she has been unemployed for a waiting period of one~~  
5 ~~week;~~

6 (5)) He or she participates in reemployment services if the  
7 individual has been referred to reemployment services pursuant to the  
8 profiling system established by the commissioner under RCW 50.20.011,  
9 unless the commissioner determines that:

10 (a) The individual has completed such services; or

11 (b) There is justifiable cause for the claimant's failure to  
12 participate in such services; and

13 ((6)) (5) As to weeks beginning after March 31, 1981, which fall  
14 within an extended benefit period as defined in RCW 50.22.010, the  
15 individual meets the terms and conditions of RCW 50.22.020 with respect  
16 to benefits claimed in excess of twenty-six times the individual's  
17 weekly benefit amount.

18 An individual's eligibility period for regular benefits shall be  
19 coincident to his or her established benefit year. An individual's  
20 eligibility period for additional or extended benefits shall be the  
21 periods prescribed elsewhere in this title for such benefits.

22 **Sec. 4.** RCW 50.20.070 and 1973 1st ex.s. c 158 s 5 are each  
23 amended to read as follows:

24 Irrespective of any other provisions of this title an individual  
25 shall be disqualified for benefits for any week with respect to which  
26 he has knowingly made a false statement or representation involving a  
27 material fact or knowingly failed to report a material fact and has  
28 thereby obtained or attempted to obtain any benefits under the  
29 provisions of this title, and for an additional twenty-six weeks  
30 commencing with the first week for which he completes an otherwise  
31 compensable claim for (~~waiting period credit or~~) benefits following  
32 the date of the delivery or mailing of the determination of  
33 disqualification under this section: PROVIDED, That such  
34 disqualification shall not be applied after two years have elapsed from  
35 the date of the delivery or mailing of the determination of  
36 disqualification under this section, but all overpayments established  
37 by such determination of disqualification shall be collected as  
38 otherwise provided by this title.

1       **Sec. 5.** RCW 50.20.095 and 1980 c 74 s 4 are each amended to read  
2 as follows:

3       Any individual registered at an established school in a course of  
4 study providing scholastic instruction of twelve or more hours per  
5 week, or the equivalent thereof, shall be disqualified from receiving  
6 benefits (~~(or waiting period credit)~~) for any week during the school  
7 term commencing with the first week of such scholastic instruction or  
8 the week of leaving employment to return to school, whichever is the  
9 earlier, and ending with the week immediately before the first full  
10 week in which the individual is no longer registered for twelve or more  
11 hours of scholastic instruction per week: PROVIDED, That registration  
12 for less than twelve hours will be for a period of sixty days or  
13 longer. The term "school" includes primary schools, secondary schools,  
14 and "institutions of higher education" as that phrase is defined in RCW  
15 50.44.037.

16       This disqualification shall not apply to any individual who:

17       (1) Is in approved training within the meaning of RCW 50.20.043; or

18       (2) Demonstrates to the commissioner by a preponderance of the  
19 evidence his or her actual availability for work, and in arriving at  
20 this determination the commissioner shall consider the following  
21 factors:

22       (a) Prior work history;

23       (b) Scholastic history;

24       (c) Past and current labor market attachment; and

25       (d) Past and present efforts to seek work.

26       **Sec. 6.** RCW 50.20.140 and 1998 c 161 s 2 are each amended to read  
27 as follows:

28       An application for initial determination(~~(, a claim for waiting~~  
29 ~~period,~~) or a claim for benefits shall be filed in accordance with  
30 such rules as the commissioner may prescribe. An application for an  
31 initial determination may be made by any individual whether unemployed  
32 or not. Each employer shall post and maintain printed statements of  
33 such rules in places readily accessible to individuals in his or her  
34 employment and shall make available to each such individual at the time  
35 he or she becomes unemployed, a printed statement of such rules and  
36 such notices, instructions, and other material as the commissioner may  
37 by rule prescribe. Such printed material shall be supplied by the  
38 commissioner to each employer without cost to the employer.

1 The term "application for initial determination" shall mean a  
2 request in writing, or by other means as determined by the  
3 commissioner, for an initial determination. (~~The term "claim for~~  
4 ~~waiting period" shall mean a certification, after the close of a given~~  
5 ~~week, that the requirements stated herein for eligibility for waiting~~  
6 ~~period have been met.~~) The term "claim for benefits" shall mean a  
7 certification, after the close of a given week, that the requirements  
8 stated herein for eligibility for receipt of benefits have been met.

9 A representative designated by the commissioner shall take the  
10 application for initial determination and for the claim for (~~waiting~~  
11 ~~period credits or for~~) benefits. When an application for initial  
12 determination has been made, the employment security department shall  
13 promptly make an initial determination which shall be a statement of  
14 the applicant's base year wages, his or her weekly benefit amount, his  
15 or her maximum amount of benefits potentially payable, and his or her  
16 benefit year. Such determination shall fix the general conditions  
17 under which (~~waiting period credit shall be granted and under which~~)  
18 benefits shall be paid during any period of unemployment occurring  
19 within the benefit year fixed by such determination.

20 **Sec. 7.** RCW 50.20.170 and 1945 c 35 s 85 are each amended to read  
21 as follows:

22 An individual who has received an initial determination finding  
23 that he is potentially entitled to receive (~~waiting period credit or~~)  
24 benefits shall, during the benefit year, be (~~given waiting period~~  
25 ~~credit or be~~) paid benefits in accordance with such initial  
26 determination for any week with respect to which the conditions of  
27 eligibility for such (~~credit or~~) benefits, as prescribed by this  
28 title, are met, unless the individual is denied (~~waiting period credit~~  
29 ~~or~~) benefits under the disqualification provisions of this title.

30 All benefits shall be paid through employment offices in accordance  
31 with such regulations as the commissioner may prescribe.

32 **Sec. 8.** RCW 50.20.180 and 1951 c 215 s 7 are each amended to read  
33 as follows:

34 If (~~waiting period credit or~~) the payment of benefits shall be  
35 denied to any claimant for any week or weeks, the claimant and such  
36 other interested party as the commissioner by regulation prescribes  
37 shall be promptly issued written notice of the denial and the reasons

1 therefor. In any case where the department is notified in accordance  
2 with such regulation as the commissioner prescribes or has reason to  
3 believe that the claimant's right to (~~waiting period credit or~~)  
4 benefits is in issue because of his separation from work for any reason  
5 other than lack of work, the department shall promptly issue a  
6 determination of allowance or denial of (~~waiting period credit or~~)  
7 benefits and the reasons therefor to the claimant, his most recent  
8 employing unit as stated by the claimant, and such other interested  
9 party as the commissioner by regulation prescribes. Notice that  
10 (~~waiting period credit or~~) benefits are allowed or denied shall  
11 suffice for the particular weeks stated in the notice or until the  
12 condition upon which the allowance or denial was based has been  
13 changed.

14 **Sec. 9.** RCW 50.32.040 and 1989 c 175 s 117 are each amended to  
15 read as follows:

16 In any proceeding before an appeal tribunal involving a dispute of  
17 an individual's initial determination, all matters covered by such  
18 initial determination shall be deemed to be in issue irrespective of  
19 the particular ground or grounds set forth in the notice of appeal.

20 In any proceeding before an appeal tribunal involving a dispute of  
21 an individual's (~~claim for waiting period credit or~~) claim for  
22 benefits, all matters and provisions of this title relating to the  
23 individual's right to receive such credit or benefits for the period in  
24 question, including but not limited to the question and nature of the  
25 claimant's availability for work within the meaning of RCW 50.20.010(3)  
26 and 50.20.080, shall be deemed to be in issue irrespective of the  
27 particular ground or grounds set forth in the notice of appeal in  
28 single claimant cases. The claimant's availability for work shall be  
29 determined apart from all other matters.

30 In any proceeding before an appeal tribunal involving an  
31 individual's right to benefits, all parties shall be afforded an  
32 opportunity for hearing after not less than seven days' notice in  
33 accordance with RCW 34.05.434.

34 In any proceeding involving an appeal relating to benefit  
35 determinations or benefit claims, the appeal tribunal, after affording  
36 the parties reasonable opportunity for fair hearing, shall render its  
37 decision affirming, modifying, or setting aside the determination or  
38 decisions of the unemployment compensation division. The parties shall

1 be duly notified of such appeal tribunal's decision together with its  
2 reasons therefor, which shall be deemed to be the final decision on the  
3 initial determination or (~~the claim for waiting period credit or~~) the  
4 claim for benefits unless, within thirty days after the date of  
5 notification or mailing, whichever is the earlier, of such decision,  
6 further appeal is perfected pursuant to the provisions of this title  
7 relating to review by the commissioner.

8       **Sec. 10.** RCW 50.32.100 and 1945 c 35 s 126 are each amended to  
9 read as follows:

10       In all proceedings provided by this title prior to court review  
11 involving dispute of an individual's initial determination(~~(7)~~) or  
12 claim for (~~waiting period credit, or for~~) benefits, the fees of all  
13 witnesses attending such proceedings pursuant to subpoena shall be paid  
14 at the rate fixed by such regulation as the commissioner shall  
15 prescribe and such fees and all costs of such proceedings otherwise  
16 chargeable to such individual, except charges for services rendered by  
17 counsel or other agent representing such individual, shall be paid out  
18 of the unemployment compensation administration fund. In all other  
19 respects and in all other proceedings under this title the rule in  
20 civil cases as to costs and attorney fees shall apply: PROVIDED, That  
21 cost bills may be served and filed and costs shall be taxed in  
22 accordance with such regulation as the commissioner shall prescribe.

23       **Sec. 11.** RCW 50.32.110 and 1945 c 35 s 127 are each amended to  
24 read as follows:

25       No individual shall be charged fees of any kind in any proceeding  
26 involving the individual's application for initial determination(~~(7)~~)  
27 or claim for (~~waiting period credit, or claim for~~) benefits, under  
28 this title by the commissioner or his representatives, or by an appeal  
29 tribunal, or any court, or any officer thereof. Any individual in any  
30 such proceeding before the commissioner or any appeal tribunal may be  
31 represented by counsel or other duly authorized agent who shall neither  
32 charge nor receive a fee for such services in excess of an amount found  
33 reasonable by the officer conducting such proceeding.

34       **Sec. 12.** RCW 50.32.130 and 1973 1st ex.s. c 158 s 17 are each  
35 amended to read as follows:

1 No bond of any kind shall be required of any individual seeking  
2 judicial review from a commissioner's decision affecting such  
3 individual's application for initial determination or claim for  
4 (~~waiting period credit or for~~) benefits.

5 No commissioner's decision shall be stayed by a petition for  
6 judicial review unless the petitioning employer shall first deposit an  
7 undertaking in an amount theretofore deemed by the commissioner to be  
8 due, if any, from the petitioning employer, together with interest  
9 thereon, if any, with the commissioner or in the registry of the court:  
10 PROVIDED, HOWEVER, That this section shall not be deemed to authorize  
11 a stay in the payment of benefits to an individual when such individual  
12 has been held entitled thereto by a decision of the commissioner which  
13 decision either affirms, reverses, or modifies a decision of an appeals  
14 tribunal.

15 **Sec. 13.** RCW 50.32.160 and 1988 c 202 s 48 are each amended to  
16 read as follows:

17 It shall be unlawful for any attorney engaged in any appeal to the  
18 courts on behalf of an individual involving the individual's  
19 application for initial determination(~~(,)~~) or claim for (~~waiting~~  
20 ~~period credit, or claim for~~) benefits to charge or receive any fee  
21 therein in excess of a reasonable fee to be fixed by the superior court  
22 in respect to the services performed in connection with the appeal  
23 taken thereto and to be fixed by the supreme court or the court of  
24 appeals in the event of appellate review, and if the decision of the  
25 commissioner shall be reversed or modified, such fee and the costs  
26 shall be payable out of the unemployment compensation administration  
27 fund. In the allowance of fees the court shall give consideration to  
28 the provisions of this title in respect to fees pertaining to  
29 proceedings involving an individual's application for initial  
30 determination(~~(, claim for waiting period credit,)~~) or claim for  
31 benefits. In other respects the practice in civil cases shall apply.

32 NEW SECTION. **Sec. 14.** RCW 50.20.020 (Waiting period credit  
33 limitation) and 1949 c 214 s 10 & 1945 c 35 s 69 are each repealed.

34 NEW SECTION. **Sec. 15.** If any part of this act is found to be in  
35 conflict with federal requirements that are a prescribed condition to  
36 the allocation of federal funds to the state or the eligibility of



1 employers in this state for federal unemployment tax credits, the  
2 conflicting part of this act is inoperative solely to the extent of the  
3 conflict, and the finding or determination does not affect the  
4 operation of the remainder of this act. Rules adopted under this act  
5 must meet federal requirements that are a necessary condition to the  
6 receipt of federal funds by the state or the granting of federal  
7 unemployment tax credits to employers in this state.

8 For the purposes of this section, "federal requirements" does not  
9 mean federal requirements that are a prescribed condition to the  
10 allocation of federal funds to partially reimburse the state for the  
11 first week of extended benefits paid under chapter 50.22 RCW.

12 NEW SECTION. **Sec. 16.** If any provision of this act or its  
13 application to any person or circumstance is held invalid, the  
14 remainder of the act or the application of the provision to other  
15 persons or circumstances is not affected.

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

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