
SUBSTITUTE SENATE BILL 6007

State of Washington

57th Legislature

2001 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Prentice, Winsley, Gardner,
Franklin, Fairley, Kline and Costa; by request of Employment Security
Department)

READ FIRST TIME 02/28/01.

1 AN ACT Relating to extending unemployment insurance coverage to
2 employees of Indian tribes; amending RCW 50.04.090; adding a new
3 section to chapter 50.04 RCW; adding a new chapter to Title 50
4 RCW; creating new sections; and declaring an emergency.

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

6 **Sec. 1.** RCW 50.04.090 and 1983 1st ex.s. c 23 s 2 are each amended
7 to read as follows:

8 "Employing unit" means any individual or any type of
9 organization, including any partnership, association, trust,
10 estate, joint stock company, insurance company, or corporation,
11 whether domestic or foreign, or the receiver, trustee in
12 bankruptcy, trustee or successor thereof, or the legal
13 representative of a deceased person, which has or subsequent to
14 January 1, 1937, had in its employ or in its "employment" one or
15 more individuals performing services within this state. The state
16 and its political subdivisions shall be deemed employing units as
17 to any transactions occurring on or after September 21, 1977 which

1 would render an employing unit liable for contributions, interest,
2 or penalties under RCW 50.24.130. "Employing unit" includes Indian
3 tribes as defined in section 3 of this act.

4 NEW SECTION. Sec. 2. A new section is added to chapter 50.04
5 RCW to read as follows:

6 The term "employment" includes services performed in the employ
7 of an Indian tribe as provided in section 3 of this act.

8 NEW SECTION. Sec. 3. The term "employment" includes service
9 performed in the employ of an Indian tribe, as defined in section
10 3306(u) of the federal unemployment tax act, provided such service
11 is excluded from "employment" as defined in the federal
12 unemployment tax act solely by reason of section 3306(c)(7), the
13 federal unemployment tax act, and is not otherwise excluded from
14 "employment" under this title. For purposes of this section, the
15 exclusions from employment in RCW 50.44.040, except RCW
16 50.44.040(12) addressing nongovernmental preschools, are
17 applicable to services performed in the employ of an Indian tribe.

18 NEW SECTION. Sec. 4. Benefits based on service in employment
19 defined in this chapter are payable in the same amount, on the
20 same terms, and subject to the same conditions as benefits payable
21 on the basis of other service under this title.

22 NEW SECTION. Sec. 5. (1) Indian tribes or tribal units,
23 including subdivisions, subsidiaries, or business enterprises
24 wholly owned by such Indian tribes, subject to this title shall
25 pay contributions under the same terms and conditions as all other
26 subject employers, unless they elect to pay into the unemployment
27 compensation fund amounts equal to the amount of benefits
28 attributable to service in the employ of the Indian tribe.

29 (2) Indian tribes electing to make payments in lieu of
30 contributions shall make such election in the same manner and
31 under the same conditions as provided in RCW 50.44.030 pertaining
32 to other units of government subject to this title. Indian tribes
33 shall determine if reimbursement for benefits paid are to be

1 elected by the tribe as a whole, by individual tribal units, or by
2 combinations of tribal units.

3 (3) Indian tribes or tribal units shall be billed for the full
4 amount of benefits attributable to service in the employ of the
5 Indian tribe or tribal unit on the same schedule as other
6 employing units that have elected to make payments in lieu of
7 contributions.

8 (4) At the discretion of the commissioner and on the same basis
9 as other employers with the same election option, any Indian tribe
10 or tribal unit that elects to become liable for payments in lieu
11 of contributions is required, within thirty days after the
12 effective date of its election, to: (a) Execute and file with the
13 commissioner a surety bond approved by the commissioner; or (b)
14 deposit with the commissioner money or securities in an amount
15 determined by the commissioner.

16 NEW SECTION. **Sec. 6.** (1)(a) Failure of the Indian tribe or
17 tribal unit to make required payments, including assessments of
18 interest and penalty, within ninety days of receipt of the
19 statement will result in the department revoking the option for
20 the Indian tribe to make payments in lieu of contributions, as
21 described in section 5 of this act, for the following tax year
22 unless payment in full is received before contribution rates for
23 the next tax year are computed.

24 (b) Any Indian tribe that loses the option to make payments in
25 lieu of contributions due to late payment or nonpayment, as
26 described in (a) of this subsection, shall have such option
27 reinstated if, after a period of one year, all contributions have
28 been made timely, provided no contributions, payments in lieu of
29 contributions for benefits paid, penalties, or interest remain
30 outstanding.

31 (2)(a) Failure of the Indian tribe or any tribal unit thereof
32 to make required payments, including assessments of interest and
33 penalty, after all collection activities deemed necessary by the
34 commissioner have been exhausted, causes services performed for
35 such tribe not to be treated as "employment" for the purposes of
36 sections 2 and 3 of this act.

37 (b) Any Indian tribe that loses coverage under (a) of this

1 subsection may have services performed for such tribe again
2 included as "employment" for purposes of sections 2 and 3 of this
3 act if all contributions, payments in lieu of contributions,
4 penalties, and interest have been paid.

5 (3)(a) The commissioner shall notify the United States internal
6 revenue service and the United States department of labor of any
7 failure of an Indian tribe to make payments required under this
8 chapter, including assessments of interest and penalty, within
9 ninety days of the final notice of delinquency.

10 (b) The commissioner shall notify the United States internal
11 revenue service and the United States department of labor of any
12 termination or reinstatement of the option to make payments in
13 lieu of contributions made under subsection (1) of this section or
14 any termination or reinstatement of coverage made under subsection
15 (2) of this section.

16 NEW SECTION. **Sec. 7.** Notices of payment and reporting
17 delinquency to Indian tribes or their tribal units must include
18 information that failure to make full payment within the
19 prescribed time frames: (1) Causes the Indian tribe to be liable
20 for taxes under the federal unemployment tax act; (2) causes the
21 Indian tribe to lose the option to make payments in lieu of
22 contributions; and (3) causes the Indian tribe to be excepted from
23 the definition of "employing unit," as provided in RCW 50.04.090,
24 and services in the employ of the Indian tribe, as provided in
25 sections 2 and 3 of this act, to be excepted from "employment."

26 NEW SECTION. **Sec. 8.** Extended benefits paid that are
27 attributable to service in the employ of an Indian tribe and not
28 reimbursed by the federal government must be financed in their
29 entirety by such Indian tribe.

30 NEW SECTION. **Sec. 9.** Unless specifically addressed in this
31 chapter, Indian tribes or their tribal units are subject to the
32 same terms and conditions as are other employers subject to
33 contributions under RCW 50.29.020 or other units of government
34 under RCW 50.44.030 that make payments in lieu of contributions.
35

1 NEW SECTION. **Sec. 10.** If any part of this act is found to be in
2 conflict with federal requirements that are a prescribed condition
3 to the allocation of federal funds to the state or the eligibility
4 of employers in this state for federal unemployment tax credits,
5 the conflicting part of this act is inoperative solely to the
6 extent of the conflict, and the finding or determination does not
7 affect the operation of the remainder of this act. Rules adopted
8 under this act must meet federal requirements that are a necessary
9 condition to the receipt of federal funds by the state or the
10 granting of federal unemployment tax credits to employers in this
11 state.

12 NEW SECTION. **Sec. 11.** 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. 12.** This act is necessary for the immediate
17 preservation of the public peace, health, or safety, or support of
18 the state government and its existing public institutions, and
19 takes effect immediately.

20 NEW SECTION. **Sec. 13.** This act applies retroactively to services
21 performed on or after December 21, 2000. Indian tribes or tribal
22 units may elect to make payments in lieu of contributions
23 effective December 21, 2000, or a subsequent date.

24 NEW SECTION. **Sec. 14.** Sections 3 through 9 of this act
25 constitute a new chapter in Title 50 RCW.

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