
HOUSE BILL 2553

State of Washington 61st Legislature 2010 Regular Session

By Representatives Conway, Green, White, Appleton, Simpson, Ormsby, Moeller, and Roberts

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1 AN ACT Relating to improving unemployment benefits; amending RCW
2 50.20.100 and 50.20.119; reenacting and amending RCW 50.20.050 and
3 50.29.021; adding a new section to chapter 50.20 RCW; and creating new
4 sections.

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

6 NEW SECTION. **Sec. 1.** The legislature finds that the fundamental
7 purposes of the unemployment insurance system are to provide partial
8 wage replacement to unemployed workers, to provide families and
9 communities with a degree of economic stability, and to counter the
10 harmful effects of economic downturns by providing the economy with an
11 economic stimulus. To that end, the legislature finds that eligibility
12 requirements, disqualification provisions, and benefit amounts should
13 be improved to enhance the effects of the unemployment insurance system
14 on individuals, families, and communities.

15 **Sec. 2.** RCW 50.20.050 and 2009 c 493 s 3 and 2009 c 247 s 1 are
16 each reenacted and amended to read as follows:

17 (1) With respect to claims that have an effective date on or after

1 January 4, 2004, and ((for)) separations that occur before September 6,
2 2009:

3 (a) An individual shall be disqualified from benefits beginning
4 with the first day of the calendar week in which he or she has left
5 work voluntarily without good cause and thereafter for seven calendar
6 weeks and until he or she has obtained bona fide work in employment
7 covered by this title and earned wages in that employment equal to
8 seven times his or her weekly benefit amount.

9 The disqualification shall continue if the work obtained is a mere
10 sham to qualify for benefits and is not bona fide work. In determining
11 whether work is of a bona fide nature, the commissioner shall consider
12 factors including but not limited to the following:

13 (i) The duration of the work;

14 (ii) The extent of direction and control by the employer over the
15 work; and

16 (iii) The level of skill required for the work in light of the
17 individual's training and experience.

18 (b) An individual is not disqualified from benefits under (a) of
19 this subsection when:

20 (i) He or she has left work to accept a bona fide offer of bona
21 fide work as described in (a) of this subsection;

22 (ii) The separation was necessary because of the illness or
23 disability of the claimant or the death, illness, or disability of a
24 member of the claimant's immediate family if:

25 (A) The claimant pursued all reasonable alternatives to preserve
26 his or her employment status by requesting a leave of absence, by
27 having promptly notified the employer of the reason for the absence,
28 and by having promptly requested reemployment when again able to assume
29 employment. These alternatives need not be pursued, however, when they
30 would have been a futile act, including those instances when the
31 futility of the act was a result of a recognized labor/management
32 dispatch system; and

33 (B) The claimant terminated his or her employment status, and is
34 not entitled to be reinstated to the same position or a comparable or
35 similar position;

36 (iii)(A) With respect to claims that have an effective date before
37 July 2, 2006, he or she: (I) Left work to relocate for the spouse's
38 employment that, due to a mandatory military transfer: (1) Is outside

1 the existing labor market area; and (2) is in Washington or another
2 state that, pursuant to statute, does not consider such an individual
3 to have left work voluntarily without good cause; and (II) remained
4 employed as long as was reasonable prior to the move;

5 (B) With respect to claims that have an effective date on or after
6 July 2, 2006, he or she: (I) Left work to relocate for the spouse's
7 employment that, due to a mandatory military transfer, is outside the
8 existing labor market area; and (II) remained employed as long as was
9 reasonable prior to the move;

10 (iv) The separation was necessary to protect the claimant or the
11 claimant's immediate family members from domestic violence, as defined
12 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

13 (v) The individual's usual compensation was reduced by twenty-five
14 percent or more;

15 (vi) The individual's usual hours were reduced by twenty-five
16 percent or more;

17 (vii) The individual's worksite changed, such change caused a
18 material increase in distance or difficulty of travel, and, after the
19 change, the commute was greater than is customary for workers in the
20 individual's job classification and labor market;

21 (viii) The individual's worksite safety deteriorated, the
22 individual reported such safety deterioration to the employer, and the
23 employer failed to correct the hazards within a reasonable period of
24 time;

25 (ix) The individual left work because of illegal activities in the
26 individual's worksite, the individual reported such activities to the
27 employer, and the employer failed to end such activities within a
28 reasonable period of time;

29 (x) The individual's usual work was changed to work that violates
30 the individual's religious convictions or sincere moral beliefs; or

31 (xi) The individual left work to enter an apprenticeship program
32 approved by the Washington state apprenticeship training council.
33 Benefits are payable beginning Sunday of the week prior to the week in
34 which the individual begins active participation in the apprenticeship
35 program.

36 (2) With respect to separations that occur on or after September 6,
37 2009, and before July 4, 2010:

1 (a) An individual shall be disqualified from benefits beginning
2 with the first day of the calendar week in which he or she has left
3 work voluntarily without good cause and thereafter for seven calendar
4 weeks and until he or she has obtained bona fide work in employment
5 covered by this title and earned wages in that employment equal to
6 seven times his or her weekly benefit amount. Good cause reasons to
7 leave work are limited to reasons listed in (b) of this subsection.

8 The disqualification shall continue if the work obtained is a mere
9 sham to qualify for benefits and is not bona fide work. In determining
10 whether work is of a bona fide nature, the commissioner shall consider
11 factors including but not limited to the following:

12 (i) The duration of the work;

13 (ii) The extent of direction and control by the employer over the
14 work; and

15 (iii) The level of skill required for the work in light of the
16 individual's training and experience.

17 (b) An individual has good cause and is not disqualified from
18 benefits under (a) of this subsection only under the following
19 circumstances:

20 (i) He or she has left work to accept a bona fide offer of bona
21 fide work as described in (a) of this subsection;

22 (ii) The separation was necessary because of the illness or
23 disability of the claimant or the death, illness, or disability of a
24 member of the claimant's immediate family if:

25 (A) The claimant pursued all reasonable alternatives to preserve
26 his or her employment status by requesting a leave of absence, by
27 having promptly notified the employer of the reason for the absence,
28 and by having promptly requested reemployment when again able to assume
29 employment. These alternatives need not be pursued, however, when they
30 would have been a futile act, including those instances when the
31 futility of the act was a result of a recognized labor/management
32 dispatch system; and

33 (B) The claimant terminated his or her employment status, and is
34 not entitled to be reinstated to the same position or a comparable or
35 similar position;

36 (iii) The claimant: (A) Left work to relocate for the employment
37 of a spouse or domestic partner that is outside the existing labor

1 market area; and (B) remained employed as long as was reasonable prior
2 to the move;

3 (iv) The separation was necessary to protect the claimant or the
4 claimant's immediate family members from domestic violence, as defined
5 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

6 (v) The individual's usual compensation was reduced by twenty-five
7 percent or more;

8 (vi) The individual's usual hours were reduced by twenty-five
9 percent or more;

10 (vii) The individual's worksite changed, such change caused a
11 material increase in distance or difficulty of travel, and, after the
12 change, the commute was greater than is customary for workers in the
13 individual's job classification and labor market;

14 (viii) The individual's worksite safety deteriorated, the
15 individual reported such safety deterioration to the employer, and the
16 employer failed to correct the hazards within a reasonable period of
17 time;

18 (ix) The individual left work because of illegal activities in the
19 individual's worksite, the individual reported such activities to the
20 employer, and the employer failed to end such activities within a
21 reasonable period of time;

22 (x) The individual's usual work was changed to work that violates
23 the individual's religious convictions or sincere moral beliefs; or

24 (xi) The individual left work to enter an apprenticeship program
25 approved by the Washington state apprenticeship training council.
26 Benefits are payable beginning Sunday of the week prior to the week in
27 which the individual begins active participation in the apprenticeship
28 program.

29 (3) With respect to separations that occur on or after July 4,
30 2010:

31 (a) Except as provided in (b) and (c) of this subsection, an
32 individual shall be disqualified from benefits beginning with the first
33 day of the calendar week in which he or she has left work voluntarily
34 and thereafter for seven calendar weeks and until he or she has
35 obtained bona fide work in employment covered by this title and earned
36 wages in that employment equal to seven times his or her weekly benefit
37 amount.

1 The disqualification shall continue if the work obtained is a mere
2 sham to qualify for benefits and is not bona fide work. In determining
3 whether work is of a bona fide nature, the commissioner shall consider
4 factors including but not limited to the following:

5 (i) The duration of the work;

6 (ii) The extent of direction and control by the employer over the
7 work; and

8 (iii) The level of skill required for the work in light of the
9 individual's training and experience.

10 (b) An individual is not disqualified from benefits under (a) of
11 this subsection under the following circumstances:

12 (i) He or she has left work to accept a bona fide offer of bona
13 fide work as described in (a) of this subsection;

14 (ii) The separation was necessary because of the illness or
15 disability of the claimant or the death, illness, or disability of a
16 member of the claimant's immediate family if:

17 (A) The claimant pursued all reasonable alternatives to preserve
18 his or her employment status by requesting a leave of absence, by
19 having promptly notified the employer of the reason for the absence,
20 and by having promptly requested reemployment when again able to assume
21 employment. These alternatives need not be pursued, however, when they
22 would have been a futile act, including those instances when the
23 futility of the act was a result of a recognized labor/management
24 dispatch system; and

25 (B) The claimant terminated his or her employment status, and is
26 not entitled to be reinstated to the same position or a comparable or
27 similar position;

28 (iii) The claimant:

29 (A) Left work to relocate for the employment of a spouse or
30 domestic partner that is outside the existing labor market area; and

31 (B) Remained employed as long as was reasonable prior to the move;

32 (iv) The separation was necessary to protect the claimant or the
33 claimant's immediate family members from domestic violence, as defined
34 in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

35 (v) The individual's usual compensation was reduced by twenty-five
36 percent or more;

37 (vi) The individual's usual hours were reduced by twenty-five
38 percent or more;

1 (vii) The individual's worksite changed, such change caused a
2 material increase in distance or difficulty of travel, and, after the
3 change, the commute was greater than is customary for workers in the
4 individual's job classification and labor market;

5 (viii) The individual's worksite safety deteriorated, the
6 individual reported such safety deterioration to the employer, and the
7 employer failed to correct the hazards within a reasonable period of
8 time;

9 (ix) The individual left work because of illegal activities in the
10 individual's worksite, the individual reported such activities to the
11 employer, and the employer failed to end such activities within a
12 reasonable period of time;

13 (x) The individual's usual work was changed to work that violates
14 the individual's religious convictions or sincere moral beliefs; or

15 (xi) The individual left work to enter an apprenticeship program
16 approved by the Washington state apprenticeship training council.
17 Benefits are payable beginning Sunday of the week prior to the week in
18 which the individual begins active participation in the apprenticeship
19 program.

20 (c) An individual also is not disqualified from benefits under (a)
21 of this subsection if the individual left work because continuing in
22 employment would work an unreasonable hardship on the individual.
23 "Unreasonable hardship" means a result not due to the individual's
24 voluntary action that would cause a reasonable person to leave that
25 employment. The circumstances must be based on existing facts, not
26 conjecture, and the reasons for leaving work must be significant. An
27 individual seeking to demonstrate unreasonable hardship must show that:

28 (i) The individual left work primarily for reasons connected with
29 his or her employment;

30 (ii) The work-connected reasons were of such a compelling nature
31 they would have caused a reasonably prudent person to leave work; and

32 (iii) The individual first exhausted all reasonable alternatives
33 before leaving work, unless pursuing reasonable alternatives would have
34 been futile.

35 (4) Notwithstanding subsections ((+2+)) (1) through (3) of this
36 section, for separations occurring on or after July 26, 2009, an
37 individual who was simultaneously employed in full-time employment and

1 part-time employment and is otherwise eligible for benefits from the
2 loss of the full-time employment shall not be disqualified from
3 benefits because the individual:

4 (a) Voluntarily quit the part-time employment before the loss of
5 the full-time employment; and

6 (b) Did not have prior knowledge that he or she would be separated
7 from full-time employment.

8 NEW SECTION. **Sec. 3.** A new section is added to chapter 50.20 RCW
9 to read as follows:

10 For separations occurring on or after July 4, 2010, no otherwise
11 eligible individual shall be denied benefits for any week by reason of
12 the application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1)
13 relating to availability for work and active search for work, or
14 failure to apply for or refusal to accept suitable work solely because
15 the individual seeks, applies for, or accepts only part-time work,
16 instead of full-time work, if the part-time work is for at least
17 seventeen hours per week.

18 **Sec. 4.** RCW 50.20.100 and 2006 c 13 s 14 are each amended to read
19 as follows:

20 (1) Suitable work for an individual is employment in an occupation
21 in keeping with the individual's prior work experience, education, or
22 training and if the individual has no prior work experience, special
23 education, or training for employment available in the general area,
24 then employment which the individual would have the physical and mental
25 ability to perform. In determining whether work is suitable for an
26 individual, the commissioner shall also consider the degree of risk
27 involved to the individual's health, safety, and morals, the
28 individual's physical fitness, the individual's length of unemployment
29 and prospects for securing local work in the individual's customary
30 occupation, the distance of the available work from the individual's
31 residence, and such other factors as the commissioner may deem
32 pertinent, including state and national emergencies.

33 (2) For individuals with base year work experience in agricultural
34 labor, any agricultural labor available from any employer shall be
35 deemed suitable unless it meets conditions in RCW 50.20.110 or the

1 commissioner finds elements of specific work opportunity unsuitable for
2 a particular individual.

3 ~~(3) ((For part-time workers as defined in RCW 50.20.119, suitable~~
4 ~~work includes suitable work under subsection (1) of this section that~~
5 ~~is for seventeen or fewer hours per week.~~

6 (4)) For individuals who have qualified for unemployment
7 compensation benefits under RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as
8 applicable, an evaluation of the suitability of the work must consider
9 the individual's need to address the physical, psychological, legal,
10 and other effects of domestic violence or stalking.

11 **Sec. 5.** RCW 50.20.119 and 2006 c 13 s 15 are each amended to read
12 as follows:

13 (1) With respect to claims that have an effective date on or after
14 January 2, 2005, and before July 4, 2010, an otherwise eligible
15 individual may not be denied benefits for any week because the
16 individual is a part-time worker and is available for, seeks, applies
17 for, or accepts only work of seventeen or fewer hours per week by
18 reason of the application of RCW 50.20.010(1)(c), 50.20.080, or
19 50.22.020(1) relating to availability for work and active search for
20 work, or failure to apply for or refusal to accept suitable work.

21 (2) For purposes of this section, "part-time worker" means an
22 individual who: (a) Earned wages in "employment" in at least forty
23 weeks in the individual's base year; and (b) did not earn wages in
24 "employment" in more than seventeen hours per week in any weeks in the
25 individual's base year.

26 **Sec. 6.** RCW 50.29.021 and 2009 c 493 s 1, 2009 c 50 s 1, and 2009
27 c 3 s 13 are each reenacted and amended to read as follows:

28 (1) This section applies to benefits charged to the experience
29 rating accounts of employers for claims that have an effective date on
30 or after January 4, 2004.

31 (2)(a) An experience rating account shall be established and
32 maintained for each employer, except employers as described in RCW
33 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
34 payments in lieu of contributions, taxable local government employers
35 as described in RCW 50.44.035, and those employers who are required to

1 make payments in lieu of contributions, based on existing records of
2 the employment security department.

3 (b) Benefits paid to an eligible individual shall be charged to the
4 experience rating accounts of each of such individual's employers
5 during the individual's base year in the same ratio that the wages paid
6 by each employer to the individual during the base year bear to the
7 wages paid by all employers to that individual during that base year,
8 except as otherwise provided in this section.

9 (c) When the eligible individual's separating employer is a covered
10 contribution paying base year employer, benefits paid to the eligible
11 individual shall be charged to the experience rating account of only
12 the individual's separating employer if the individual qualifies for
13 benefits under:

14 (i) RCW 50.20.050 (1)(b)(i), (2)(b)(i), or (3)(b)(i), as
15 applicable, and became unemployed after having worked and earned wages
16 in the bona fide work; or

17 (ii) RCW 50.20.050 (1)(b) (v) through (x), (2)(b) (v) through (x),
18 or (3)(b) (v) through (x), as applicable.

19 (3) The legislature finds that certain benefit payments, in whole
20 or in part, should not be charged to the experience rating accounts of
21 employers except those employers described in RCW 50.44.010, 50.44.030,
22 and 50.50.030 who have properly elected to make payments in lieu of
23 contributions, taxable local government employers described in RCW
24 50.44.035, and those employers who are required to make payments in
25 lieu of contributions, as follows:

26 (a) Benefits paid to any individual later determined to be
27 ineligible shall not be charged to the experience rating account of any
28 contribution paying employer. However, when a benefit claim becomes
29 invalid due to an amendment or adjustment of a report where the
30 employer failed to report or inaccurately reported hours worked or
31 remuneration paid, or both, all benefits paid will be charged to the
32 experience rating account of the contribution paying employer or
33 employers that originally filed the incomplete or inaccurate report or
34 reports. An employer who reimburses the trust fund for benefits paid
35 to workers and who fails to report or inaccurately reported hours
36 worked or remuneration paid, or both, shall reimburse the trust fund
37 for all benefits paid that are based on the originally filed incomplete
38 or inaccurate report or reports.

1 (b) Benefits paid to an individual filing under the provisions of
2 chapter 50.06 RCW shall not be charged to the experience rating account
3 of any contribution paying employer only if:

4 (i) The individual files under RCW 50.06.020(1) after receiving
5 crime victims' compensation for a disability resulting from a nonwork-
6 related occurrence; or

7 (ii) The individual files under RCW 50.06.020(2).

8 (c) Benefits paid which represent the state's share of benefits
9 payable as extended benefits defined under RCW 50.22.010(6) shall not
10 be charged to the experience rating account of any contribution paying
11 employer.

12 (d) In the case of individuals who requalify for benefits under RCW
13 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
14 the disqualifying separation shall not be charged to the experience
15 rating account of the contribution paying employer from whom that
16 separation took place.

17 (e) Benefits paid to an individual who qualifies for benefits under
18 RCW 50.20.050 (1)(b) (iv) or (xi), (2)(b) (iv) or (xi) or (3)(b) (iv)
19 or (xi), as applicable, shall not be charged to the experience rating
20 account of any contribution paying employer.

21 (f) With respect to claims with an effective date on or after the
22 first Sunday following April 22, 2005, benefits paid that exceed the
23 benefits that would have been paid if the weekly benefit amount for the
24 claim had been determined as one percent of the total wages paid in the
25 individual's base year shall not be charged to the experience rating
26 account of any contribution paying employer. This subsection (3)(f)
27 does not apply to the calculation of contribution rates under RCW
28 50.29.025 for rate year 2010 and thereafter.

29 (g) The forty-five dollar increase paid as part of an individual's
30 weekly benefit amount as provided in RCW 50.20.1201 shall not be
31 charged to the experience rating account of any contribution paying
32 employer.

33 (h) With respect to claims where the minimum amount payable weekly
34 is increased to one hundred fifty-five dollars pursuant to RCW
35 50.20.1201(3), benefits paid that exceed the benefits that would have
36 been paid if the minimum amount payable weekly had been calculated
37 pursuant to RCW 50.20.120 shall not be charged to the experience rating
38 account of any contribution paying employer.

1 (i) Training benefits paid to an individual under RCW 50.22.155
2 shall not be charged to the experience rating account of any
3 contribution paying employer.

4 (4)(a) A contribution paying base year employer, not otherwise
5 eligible for relief of charges for benefits under this section, may
6 receive such relief if the benefit charges result from payment to an
7 individual who:

8 (i) Last left the employ of such employer voluntarily for reasons
9 not attributable to the employer;

10 (ii) Was discharged for misconduct or gross misconduct connected
11 with his or her work not a result of inability to meet the minimum job
12 requirements;

13 (iii) Is unemployed as a result of closure or severe curtailment of
14 operation at the employer's plant, building, worksite, or other
15 facility. This closure must be for reasons directly attributable to a
16 catastrophic occurrence such as fire, flood, or other natural disaster;

17 (iv) Continues to be employed on a regularly scheduled permanent
18 part-time basis by a base year employer and who at some time during the
19 base year was concurrently employed and subsequently separated from at
20 least one other base year employer. Benefit charge relief ceases when
21 the employment relationship between the employer requesting relief and
22 the claimant is terminated. This subsection does not apply to shared
23 work employers under chapter 50.06 RCW; or

24 (v) Was hired to replace an employee who is a member of the
25 military reserves or National Guard and was called to federal active
26 military service by the president of the United States and is
27 subsequently laid off when that employee is reemployed by their
28 employer upon release from active duty within the time provided for
29 reemployment in RCW 73.16.035.

30 (b) The employer requesting relief of charges under this subsection
31 must request relief in writing within thirty days following mailing to
32 the last known address of the notification of the valid initial
33 determination of such claim, stating the date and reason for the
34 separation or the circumstances of continued employment. The
35 commissioner, upon investigation of the request, shall determine
36 whether relief should be granted.

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

11 NEW SECTION. **Sec. 8.** If any provision of this act or its
12 application to any person or circumstance is held invalid, the
13 remainder of the act or the application of the provision to other
14 persons or circumstances is not affected.

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