
SECOND SUBSTITUTE SENATE BILL 5319

State of Washington

61st Legislature

2009 Regular Session

By Senate Ways & Means (originally sponsored by Senator Kohl-Welles; by request of Governor Gregoire)

READ FIRST TIME 02/12/09.

1 AN ACT Relating to improving economic security through unemployment
2 compensation; amending RCW 50.20.120, 50.22.150, 50.60.020, 50.60.030,
3 50.60.060, 50.60.070, 50.60.090, 50.60.100, 50.29.021, and 50.29.025;
4 adding a new section to chapter 50.20 RCW; adding new sections to
5 chapter 50.22 RCW; creating new sections; providing an effective date;
6 and declaring an emergency.

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

8 NEW SECTION. **Sec. 1.** This act may be known and cited as the
9 economic security act of 2009.

10 **PART I - TEMPORARY BENEFIT INCREASE**

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 50.20 RCW
12 to read as follows:

13 (1) This section applies beginning May 3, 2009.

14 (2)(a) For claims with an effective date before May 3, 2009, in
15 weeks of unemployment beginning on or after May 3, 2009, an
16 individual's weekly benefit amount shall be the amount established
17 under RCW 50.20.120 and subsection (3) of this section plus an

1 additional forty-five dollars. For individuals who have a balance of
2 regular unemployment benefits available, the weekly benefit amount
3 under this subsection (2)(a) is payable for all remaining weeks of
4 regular, extended, emergency, supplemental, or additional benefits on
5 that claim. For individuals who have exhausted regular benefits but
6 have a balance of training benefits available as provided in section 4
7 of this act or RCW 50.22.150, the weekly benefit amount under this
8 subsection (2)(a) is payable for all remaining weeks of training
9 benefits, but not for weeks of extended, emergency, supplemental, or
10 additional benefits on that claim unless specifically authorized under
11 federal or state law.

12 (b) For claims with an effective date on or after May 3, 2009, and
13 before January 3, 2010, an individual's weekly benefit amount shall be
14 the amount established under RCW 50.20.120 and subsection (3) of this
15 section plus an additional forty-five dollars. The weekly benefit
16 amount under this subsection (2)(b) is payable for all weeks of
17 regular, extended, emergency, supplemental, or additional benefits on
18 that claim.

19 (3)(a) For benefit years beginning before May 3, 2009, in weeks of
20 unemployment beginning on or after May 3, 2009, the minimum amount
21 payable weekly shall be one hundred fifty-five dollars. For
22 individuals who have a balance of regular unemployment benefits
23 available, the minimum amount payable weekly under this subsection
24 (3)(a) is payable for all remaining weeks of regular, extended,
25 emergency, supplemental, or additional benefits on that claim. For
26 individuals who have exhausted regular benefits but have a balance of
27 training benefits available as provided in section 4 of this act or RCW
28 50.22.150, the minimum amount payable weekly under this subsection
29 (3)(a) is payable for all remaining weeks of training benefits, but not
30 for weeks of extended, emergency, supplemental, or additional benefits
31 on that claim unless specifically authorized under federal or state
32 law.

33 (b) For benefit years beginning on or after May 3, 2009, and before
34 January 3, 2010, the minimum amount payable weekly shall be one hundred
35 fifty-five dollars. The minimum amount payable weekly under this
36 subsection (3)(b) is payable for all weeks of regular, extended,
37 emergency, supplemental, or additional benefits on that claim.

1 (4) The weekly benefit amounts and the minimum amounts payable
2 weekly under this section shall increase the maximum benefits payable
3 to the individual under RCW 50.20.120(1) by a corresponding dollar
4 amount.

5 (5) The weekly benefit amounts under this section shall increase
6 the maximum amount payable weekly, irrespective of the provisions of
7 RCW 50.20.120(3).

8 (6) Payment of benefits to individuals whose weekly benefit amounts
9 are increased under this section shall be subject to the same terms and
10 conditions under this title that apply to the payment of benefits to
11 individuals whose benefit amounts are established under RCW 50.20.120.

12 (7) This section does not apply to claims with an effective date on
13 or after January 3, 2010.

14 **Sec. 3.** RCW 50.20.120 and 2006 c 13 s 1 are each amended to read
15 as follows:

16 Except as provided in section 2 of this act, benefits shall be
17 payable as provided in this section.

18 ~~(1)((a) Subject to the other provisions of this title, benefits~~
19 ~~shall be payable to any eligible individual during the individual's~~
20 ~~benefit year in a maximum amount equal to the lesser of thirty times~~
21 ~~the weekly benefit amount, as determined in subsection (2) of this~~
22 ~~section, or one third of the individual's base year wages under this~~
23 ~~title: PROVIDED, That as to any week which falls in an extended~~
24 ~~benefit period as defined in RCW 50.22.010(1), an individual's~~
25 ~~eligibility for maximum benefits in excess of twenty six times his or~~
26 ~~her weekly benefit amount will be subject to the terms and conditions~~
27 ~~set forth in RCW 50.22.020.~~

28 ~~(b) With respect to claims that have an effective date on or after~~
29 ~~the first Sunday of the calendar month immediately following the month~~
30 ~~in which the commissioner finds that the state unemployment rate is six~~
31 ~~and eight tenths percent or less,)) For claims with an effective date~~
32 on or after April 4, 2004, benefits shall be payable to any eligible
33 individual during the individual's benefit year in a maximum amount
34 equal to the lesser of twenty-six times the weekly benefit amount, as
35 determined in subsection (2) of this section, or one-third of the
36 individual's base year wages under this title.

1 ~~(2)((a) For claims with an effective date before January 4, 2004,~~
2 ~~an individual's weekly benefit amount shall be an amount equal to one~~
3 ~~twenty-fifth of the average quarterly wages of the individual's total~~
4 ~~wages during the two quarters of the individual's base year in which~~
5 ~~such total wages were highest.~~

6 ~~(b) With respect to claims with an effective date on or after~~
7 ~~January 4, 2004, and before January 2, 2005, an individual's weekly~~
8 ~~benefit amount shall be an amount equal to one twenty-fifth of the~~
9 ~~average quarterly wages of the individual's total wages during the~~
10 ~~three quarters of the individual's base year in which such total wages~~
11 ~~were highest.~~

12 ~~(c)(i) With respect to claims with an effective date on or after~~
13 ~~January 2, 2005, except as provided in (c)(ii) of this subsection, an~~
14 ~~individual's weekly benefit amount shall be an amount equal to one~~
15 ~~percent of the total wages paid in the individual's base year.~~

16 ~~(ii) With respect to))~~ For claims with an effective date on or
17 after ~~((the first Sunday following))~~ April ~~((22))~~ 24, 2005, an
18 individual's weekly benefit amount shall be an amount equal to three
19 and eighty-five one-hundredths percent of the average quarterly wages
20 of the individual's total wages during the two quarters of the
21 individual's base year in which such total wages were highest.

22 (3) The maximum and minimum amounts payable weekly shall be
23 determined as of each June 30th to apply to benefit years beginning in
24 the twelve-month period immediately following such June 30th.

25 ~~(a)((i) With respect to claims that have an effective date before~~
26 ~~January 4, 2004, the maximum amount payable weekly shall be seventy~~
27 ~~percent of the "average weekly wage" for the calendar year preceding~~
28 ~~such June 30th.~~

29 ~~(ii) With respect to claims that have an effective date on or after~~
30 ~~January 4, 2004,))~~ The maximum amount payable weekly shall be either
31 four hundred ninety-six dollars or sixty-three percent of the "average
32 weekly wage" for the calendar year preceding such June 30th, whichever
33 is greater.

34 (b) The minimum amount payable weekly shall be fifteen percent of
35 the "average weekly wage" for the calendar year preceding such June
36 30th.

37 (4) If any weekly benefit, maximum benefit, or minimum benefit

1 amount computed herein is not a multiple of one dollar, it shall be
2 reduced to the next lower multiple of one dollar.

3 **PART II - TRAINING BENEFITS PROGRAMS**

4 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.22 RCW
5 to read as follows:

6 (1) This section applies to claims with an effective date on or
7 after April 5, 2009.

8 (2) Subject to availability of funds, training benefits are
9 available for an individual who is eligible for or has exhausted
10 entitlement to unemployment compensation benefits when:

11 (a) The individual is a dislocated worker as defined in RCW
12 50.04.075 and, after assessment of the individual's labor market,
13 occupation, or skills, is determined to need job-related training to
14 find suitable employment in the individual's labor market. The
15 assessment of demand for the individual's occupation or skill sets must
16 be substantially based on declining occupation or skill sets and high-
17 demand occupations identified in local labor market areas by the local
18 workforce development councils in cooperation with the employment
19 security department and its labor market information division; or

20 (b) For claims with an effective date on or after September 7,
21 2009, the individual:

22 (i) Earned an average hourly wage in the individual's base year
23 that is less than one hundred thirty percent of the state minimum wage,
24 and after assessment, it is determined that the individual's earning
25 potential will be enhanced through vocational training. The
26 individual's average hourly wage is calculated by dividing the total
27 wages paid by the total hours worked in the individual's base year;

28 (ii) Served in the United States military or the Washington
29 national guard during the twelve-month period prior to the application
30 date, was honorably discharged from military service or the Washington
31 national guard and, after assessment, is determined to need job-related
32 training to find suitable employment in the individual's labor market;

33 (iii) Is currently serving in the Washington national guard and,
34 after assessment, is determined to need job-related training to find
35 suitable employment in the individual's labor market; or

1 (iv) Is disabled due to an injury or illness and, after assessment,
2 is determined to be unable to return to his or her previous occupation
3 and to need job-related training to find suitable employment in the
4 individual's labor market.

5 (3)(a) The individual must develop an individual training program
6 that is submitted to the commissioner for approval within ninety days
7 after the individual is notified by the employment security department
8 of the requirements of this section;

9 (b) The individual must enter the approved training program by one
10 hundred twenty days after the date of the notification, unless the
11 employment security department determines that the training is not
12 available during the one hundred twenty days, in which case the
13 individual enters training as soon as it is available;

14 (c) The department may waive the deadlines established under this
15 subsection for reasons deemed by the commissioner to be good cause.

16 (4) The individual must be enrolled in training approved under this
17 section on a full-time basis as determined by the educational
18 institution, except that less than full-time training may be approved
19 when the individual has a physical, mental, or emotional disability
20 that precludes enrollment on a full-time basis.

21 (5) The individual must make satisfactory progress in the training
22 as defined by the commissioner and certified by the educational
23 institution.

24 (6) An individual is not eligible for training benefits under this
25 section if he or she:

26 (a) Is a standby claimant who expects recall to his or her regular
27 employer; or

28 (b) Has a definite recall date that is within six months of the
29 date he or she is laid off.

30 (7) The following definitions apply throughout this section unless
31 the context clearly requires otherwise.

32 (a) "Educational institution" means an institution of higher
33 education as defined in RCW 28B.10.016 or an educational institution as
34 defined in RCW 28C.04.410, including equivalent educational
35 institutions in other states.

36 (b) "High-demand occupation" means an occupation with a substantial
37 number of current or projected employment opportunities.

1 (c) "Training benefits" means additional benefits paid under this
2 section.

3 (d) "Training program" means:

4 (i) An education program determined to be necessary as a
5 prerequisite to vocational training after counseling at the educational
6 institution in which the individual enrolls under his or her approved
7 training program; or

8 (ii) A vocational training program at an educational institution
9 that:

10 (A) Is targeted to training for a high-demand occupation;

11 (B) Is likely to enhance the individual's marketable skills and
12 earning power; and

13 (C) Meets the criteria for performance developed by the workforce
14 training and education coordinating board for the purpose of
15 determining those training programs eligible for funding under Title I
16 of P.L. 105-220.

17 "Training program" does not include any course of education
18 primarily intended to meet the requirements of a baccalaureate or
19 higher degree, unless the training meets specific requirements for
20 certification, licensing, or for specific skills necessary for the
21 occupation.

22 (8) Benefits shall be paid as follows:

23 (a) The total training benefit amount shall be fifty-two times the
24 individual's weekly benefit amount, reduced by the total amount of
25 regular benefits and extended benefits paid, or deemed paid, with
26 respect to the benefit year.

27 (b) The weekly benefit amount shall be the same as the regular
28 weekly amount payable during the applicable benefit year and shall be
29 paid under the same terms and conditions as regular benefits.

30 (c) Training benefits shall be paid before any extended benefits
31 but not before any similar federally funded program.

32 (d) Training benefits are not payable for weeks more than two years
33 beyond the end of the benefit year of the regular claim.

34 (9) The requirement under RCW 50.22.010(10) relating to exhausting
35 regular benefits does not apply to an individual otherwise eligible for
36 training benefits under this section when the individual's benefit year
37 ends before his or her training benefits are exhausted and the

1 individual is eligible for a new benefit year. These individuals will
2 have the option of remaining on the original claim or filing a new
3 claim.

4 (10) Individuals who receive training benefits under RCW 50.22.150
5 or this section are not eligible for training benefits under this
6 section for five years from the last receipt of training benefits.

7 (11) An individual eligible to receive a trade readjustment
8 allowance under chapter 2, Title II of the trade act of 1974, as
9 amended, shall not be eligible to receive benefits under this section
10 for each week the individual receives such trade readjustment
11 allowance.

12 (12) An individual eligible to receive emergency unemployment
13 compensation under any federal law shall not be eligible to receive
14 benefits under this section for each week the individual receives such
15 compensation.

16 (13) All base year employers are interested parties to the approval
17 of training and the granting of training benefits.

18 (14) Each local workforce development council, in cooperation with
19 the employment security department and its labor market information
20 division, must identify occupations and skill sets that are declining
21 and high-demand occupations and skill sets. Each local workforce
22 development council shall update this information annually or more
23 frequently if needed.

24 (15) The commissioner shall adopt rules as necessary to implement
25 this section.

26 **Sec. 5.** RCW 50.22.150 and 2002 c 149 s 2 are each amended to read
27 as follows:

28 (1) This section applies to claims with an effective date before
29 April 5, 2009.

30 (2) Subject to availability of funds, training benefits are
31 available for an individual who is eligible for or has exhausted
32 entitlement to unemployment compensation benefits and who:

33 (a) Is a dislocated worker as defined in RCW 50.04.075;

34 (b) Except as provided under subsection ((+2+)) (3) of this
35 section, has demonstrated, through a work history, sufficient tenure in
36 an occupation or in work with a particular skill set. This screening
37 will take place during the assessment process;

1 (c) Is, after assessment of demand for the individual's occupation
2 or skills in the individual's labor market, determined to need job-
3 related training to find suitable employment in his or her labor
4 market. Beginning July 1, 2001, the assessment of demand for the
5 individual's occupation or skill sets must be substantially based on
6 declining occupation or skill sets identified in local labor market
7 areas by the local workforce development councils, in cooperation with
8 the employment security department and its labor market information
9 division, under subsection ~~((+10))~~ (11) of this section;

10 (d) Develops an individual training program that is submitted to
11 the commissioner for approval within sixty days after the individual is
12 notified by the employment security department of the requirements of
13 this section;

14 (e) Enters the approved training program by ninety days after the
15 date of the notification, unless the employment security department
16 determines that the training is not available during the ninety-day
17 period, in which case the individual enters training as soon as it is
18 available; and

19 (f) Is enrolled in training approved under this section on a full-
20 time basis as determined by the educational institution, and is making
21 satisfactory progress in the training as certified by the educational
22 institution.

23 ~~((+2))~~ (3) Until June 30, 2002, the following individuals who meet
24 the requirements of subsection ~~((+1))~~ (2) of this section may, without
25 regard to the tenure requirements under subsection ~~((+1))~~ (2)(b) of
26 this section, receive training benefits as provided in this section:

27 (a) An exhaustee who has base year employment in the aerospace
28 industry assigned the standard industrial classification code "372" or
29 the North American industry classification system code "336411";

30 (b) An exhaustee who has base year employment in the forest
31 products industry, determined by the department, but including the
32 industries assigned the major group standard industrial classification
33 codes "24" and "26" or any equivalent codes in the North American
34 industry classification system code, and the industries involved in the
35 harvesting and management of logs, transportation of logs and wood
36 products, processing of wood products, and the manufacturing and
37 distribution of wood processing and logging equipment; or

1 (c) An exhaustee who has base year employment in the fishing
2 industry assigned the standard industrial classification code "0912" or
3 any equivalent codes in the North American industry classification
4 system code.

5 (~~(+3)~~) (4) An individual is not eligible for training benefits
6 under this section if he or she:

7 (a) Is a standby claimant who expects recall to his or her regular
8 employer;

9 (b) Has a definite recall date that is within six months of the
10 date he or she is laid off; or

11 (c) Is unemployed due to a regular seasonal layoff which
12 demonstrates a pattern of unemployment consistent with the provisions
13 of RCW 50.20.015. Regular seasonal layoff does not include layoff due
14 to permanent structural downsizing or structural changes in the
15 individual's labor market.

16 (~~(+4)~~) (5) The definitions in this subsection apply throughout
17 this section unless the context clearly requires otherwise.

18 (a) "Educational institution" means an institution of higher
19 education as defined in RCW 28B.10.016 or an educational institution as
20 defined in RCW 28C.04.410, including equivalent educational
21 institutions in other states.

22 (b) "Sufficient tenure" means earning a plurality of wages in a
23 particular occupation or using a particular skill set during the base
24 year and at least two of the four twelve-month periods immediately
25 preceding the base year.

26 (c) "Training benefits" means additional benefits paid under this
27 section.

28 (d) "Training program" means:

29 (i) An education program determined to be necessary as a
30 prerequisite to vocational training after counseling at the educational
31 institution in which the individual enrolls under his or her approved
32 training program; or

33 (ii) A vocational training program at an educational institution:

34 (A) That is targeted to training for a high demand occupation.
35 Beginning July 1, 2001, the assessment of high demand occupations
36 authorized for training under this section must be substantially based
37 on labor market and employment information developed by local workforce

1 development councils, in cooperation with the employment security
2 department and its labor market information division, under subsection
3 (~~(10)~~) (11) of this section;

4 (B) That is likely to enhance the individual's marketable skills
5 and earning power; and

6 (C) That meets the criteria for performance developed by the
7 workforce training and education coordinating board for the purpose of
8 determining those training programs eligible for funding under Title I
9 of P.L. 105-220.

10 "Training program" does not include any course of education
11 primarily intended to meet the requirements of a baccalaureate or
12 higher degree, unless the training meets specific requirements for
13 certification, licensing, or for specific skills necessary for the
14 occupation.

15 (~~(5)~~) (6) Benefits shall be paid as follows:

16 (a)(i) Except as provided in (a)(iii) of this subsection, for
17 exhaustees who are eligible under subsection (~~(1)~~) (2) of this
18 section, the total training benefit amount shall be fifty-two times the
19 individual's weekly benefit amount, reduced by the total amount of
20 regular benefits and extended benefits paid, or deemed paid, with
21 respect to the benefit year; or

22 (ii) For exhaustees who are eligible under subsection (~~(2)~~) (3)
23 of this section, for claims filed before June 30, 2002, the total
24 training benefit amount shall be seventy-four times the individual's
25 weekly benefit amount, reduced by the total amount of regular benefits
26 and extended benefits paid, or deemed paid, with respect to the benefit
27 year; or

28 (iii) For exhaustees eligible under subsection (~~(1)~~) (2) of this
29 section from industries listed under subsection (~~(2)~~) (3)(a) of this
30 section, for claims filed on or after June 30, 2002, but before January
31 5, 2003, the total training benefit amount shall be seventy-four times
32 the individual's weekly benefit amount, reduced by the total amount of
33 regular benefits and extended benefits paid, or deemed paid, with
34 respect to the benefit year.

35 (b) The weekly benefit amount shall be the same as the regular
36 weekly amount payable during the applicable benefit year and shall be
37 paid under the same terms and conditions as regular benefits. The

1 training benefits shall be paid before any extended benefits but not
2 before any similar federally funded program.

3 (c) Training benefits are not payable for weeks more than two years
4 beyond the end of the benefit year of the regular claim.

5 ((+6+)) (7) The requirement under RCW 50.22.010(10) relating to
6 exhausting regular benefits does not apply to an individual otherwise
7 eligible for training benefits under this section when the individual's
8 benefit year ends before his or her training benefits are exhausted and
9 the individual is eligible for a new benefit year. These individuals
10 will have the option of remaining on the original claim or filing a new
11 claim.

12 ((+7+)) (8)(a) Except as provided in (b) of this subsection,
13 individuals who receive training benefits under this section or under
14 any previous additional benefits program for training are not eligible
15 for training benefits under this section for five years from the last
16 receipt of training benefits under this section or under any previous
17 additional benefits program for training.

18 (b) With respect to claims that are filed before January 5, 2003,
19 an individual in the aerospace industry assigned the standard
20 industrial code "372" or the North American industry classification
21 system code "336411" who received training benefits under this section,
22 and who had been making satisfactory progress in a training program but
23 did not complete the program, is eligible, without regard to the five-
24 year limitation of this section and without regard to the requirement
25 of subsection ((+1+)) (2)(b) of this section, if applicable, to receive
26 training benefits under this section in order to complete that training
27 program. The total training benefit amount that applies to the
28 individual is seventy-four times the individual's weekly benefit
29 amount, reduced by the total amount of regular benefits paid, or deemed
30 paid, with respect to the benefit year in which the training program
31 resumed and, if applicable, reduced by the amount of training benefits
32 paid, or deemed paid, with respect to the benefit year in which the
33 training program commenced.

34 ((+8+)) (9) An individual eligible to receive a trade readjustment
35 allowance under chapter 2 of Title II of the Trade Act of 1974, as
36 amended, shall not be eligible to receive benefits under this section
37 for each week the individual receives such trade readjustment
38 allowance. An individual eligible to receive emergency unemployment

1 compensation, so called, under any federal law, shall not be eligible
2 to receive benefits under this section for each week the individual
3 receives such compensation.

4 ~~((+9))~~ (10) All base year employers are interested parties to the
5 approval of training and the granting of training benefits.

6 ~~((+10))~~ (11) By July 1, 2001, each local workforce development
7 council, in cooperation with the employment security department and its
8 labor market information division, must identify occupations and skill
9 sets that are declining and occupations and skill sets that are in high
10 demand. For the purposes of RCW 50.22.130 through 50.22.150 and
11 section 9, chapter 2, Laws of 2000, "high demand" means demand for
12 employment that exceeds the supply of qualified workers for occupations
13 or skill sets in a labor market area. Local workforce development
14 councils must use state and locally developed labor market information.
15 Thereafter, each local workforce development council shall update this
16 information annually or more frequently if needed.

17 ~~((+11))~~ (12) The commissioner shall adopt rules as necessary to
18 implement this section.

19 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.22 RCW
20 to read as follows:

21 The employment security department shall report to the appropriate
22 committees of the legislature by December 1, 2009, and every year
23 thereafter, on the status of the training benefits program and the
24 resulting outcomes. The department shall include in its report:

25 (1) A demographic analysis of participants in the training benefits
26 program under this section including the number of claimants per North
27 American industry classification system code and the gender, race, age,
28 and geographic representation of participants;

29 (2) The duration of training benefits claimed per claimant;

30 (3) An analysis of the training provided to participants including
31 the occupational category supported by the training, those participants
32 who complete training in relationship to those that do not, and the
33 reasons for noncompletion of approved training programs;

34 (4) The employment and wage history of participants, including the
35 pretraining and posttraining wage and whether those participating in
36 training return to their previous employer after training terminates;
37 and

1 (5) An identification and analysis of administrative costs at both
2 the local and state level for administering this program.

3 **PART III - SHARED WORK PROGRAM**

4 **Sec. 7.** RCW 50.60.020 and 1983 c 207 s 2 are each amended to read
5 as follows:

6 Unless the context clearly requires otherwise, the definitions in
7 this section apply throughout this chapter.

8 (1) "Affected (~~(unit)~~) employee" means a specified (~~(plant,~~
9 ~~department, shift, or other definable unit consisting of one or more~~
10 ~~employees)~~) employee, to which an approved shared work compensation
11 plan applies.

12 (2) "Fringe benefits" include health insurance, retirement benefits
13 under benefit pension plans as defined in section 3(35) of the employee
14 retirement income security act of 1974, paid vacation and holidays, and
15 sick leave, which are incidents of employment in addition to cash
16 remuneration.

17 (3) "Shared work benefits" means the benefits payable to
18 (~~(employees in)~~) an affected (~~(unit)~~) employee under an approved shared
19 work compensation plan as distinguished from the benefits otherwise
20 payable under this title.

21 (4) "Shared work compensation plan" means a plan of an employer, or
22 of an employers' association, under which there is a reduction in the
23 number of hours worked by employees rather than temporary layoffs.

24 (5) "Shared work employer" means an employer, one or more of whose
25 employees are covered by a shared work compensation plan.

26 (6) "Usual weekly hours of work" means the normal number of hours
27 of work for (~~(full-time employees in the affected unit)~~) the affected
28 employee when (~~(that unit)~~) he or she is (~~(operating)~~) working on a
29 full-time basis, not to exceed forty hours and not including overtime.

30 (7) "Unemployment compensation" means the benefits payable under
31 this title other than shared work benefits and includes any amounts
32 payable pursuant to an agreement under federal law providing for
33 compensation, assistance, or allowances with respect to unemployment.

34 (8) "Employers' association" means an association which is a party
35 to a collective bargaining agreement under which there is a shared work
36 compensation plan.

1 **Sec. 8.** RCW 50.60.030 and 1985 c 43 s 1 are each amended to read
2 as follows:

3 An employer or employers' association wishing to participate in a
4 shared work compensation program shall submit a written and signed
5 shared work compensation plan to the commissioner for approval. The
6 commissioner shall approve a shared work compensation plan only if the
7 following criteria are met:

8 (1) The plan identifies the affected ~~((units))~~ employees to which
9 it applies;

10 (2) ~~((An))~~ Each affected employee ~~((in an affected unit are))~~ is
11 identified by name, social security number, and by any other
12 information required by the commissioner;

13 (3) The usual weekly hours of work for ~~((an))~~ each affected
14 employee ~~((in an affected unit))~~ are reduced by not less than ten
15 percent and not more than fifty percent;

16 (4) Fringe benefits will continue to be provided on the same basis
17 as before the reduction in work hours. In no event shall the level of
18 health benefits be reduced due to a reduction in hours;

19 (5) The plan certifies that the aggregate reduction in work hours
20 for each affected employee is in lieu of temporary layoffs ~~((which~~
21 ~~would have affected at least ten percent of the employees in the~~
22 ~~affected units to which the plan applies and))~~ which would have
23 resulted in an equivalent reduction in work hours;

24 ~~((The plan applies to at least ten percent of the employees in~~
25 ~~the affected unit;~~

26 ~~(+))~~ The plan is approved in writing by the collective bargaining
27 agent for each collective bargaining agreement covering any affected
28 employee ~~((in the affected unit));~~

29 ~~((+8))~~ (7) The plan will not subsidize seasonal employers during
30 the off season nor subsidize employers who have traditionally used
31 part-time employees; and

32 ~~((+9))~~ (8) The employer agrees to furnish reports necessary for
33 the proper administration of the plan and to permit access by the
34 commissioner to all records necessary to verify the plan before
35 approval and after approval to evaluate the application of the plan.

36 In addition to subsections (1) through ~~((+9))~~ (8) of this section,
37 the commissioner shall take into account any other factors which may be
38 pertinent.

1 **Sec. 9.** RCW 50.60.060 and 1983 c 207 s 6 are each amended to read
2 as follows:

3 A shared work compensation plan shall be effective on the date
4 (~~specified in the plan or on~~) agreed upon by the department and the
5 employer but no later than the first day of the second calendar week
6 after the date of the commissioner's approval, (~~whichever is later~~)
7 unless a later date is requested by the employer. The plan shall
8 expire at the end of the twelfth full calendar month after its
9 effective date, or on the date specified in the plan if that date is
10 earlier, unless the plan is revoked before that date by the
11 commissioner. If a plan is revoked by the commissioner, it shall
12 terminate on the date specified in the commissioner's order of
13 revocation.

14 **Sec. 10.** RCW 50.60.070 and 1983 c 207 s 7 are each amended to read
15 as follows:

16 The commissioner may revoke approval of a shared work compensation
17 plan for good cause. The revocation order shall be in writing and
18 shall specify the date the revocation is effective and the reasons for
19 the revocation. Good cause for revocation shall include failure to
20 comply with the assurances given in the plan, unreasonable revision of
21 productivity standards (~~for the affected unit~~), conduct or
22 occurrences tending to defeat the intent and effective operation of the
23 plan, and violation of the criteria on which approval of the plan was
24 based.

25 Such action may be initiated at any time by the commissioner on his
26 or her own motion, on the motion of any of the affected (~~unit~~)
27 employees, or on the motion of the appropriate collective bargaining
28 agents. The commissioner shall review each plan at least once within
29 the twelve month period the plan is in effect to assure that it
30 continues to meet the requirements of this chapter.

31 **Sec. 11.** RCW 50.60.090 and 1983 c 207 s 9 are each amended to read
32 as follows:

33 An individual is eligible to receive shared work benefits with
34 respect to any week only if, in addition to meeting the conditions of
35 eligibility for other benefits under this title, the commissioner finds
36 that:

- 1 (1) The individual was employed during that week as (~~a member of~~)
2 an affected (~~unit~~) employee under an approved shared work
3 compensation plan which was in effect for that week;
- 4 (2) The individual was able to work and was available for
5 additional hours of work and for full-time work with the shared work
6 employer; and
- 7 (3) Notwithstanding any other provision of this chapter, an
8 individual is deemed to have been unemployed in any week for which
9 remuneration is payable to him or her as an affected employee (~~in an~~
10 ~~affected unit~~) for less than his or her normal weekly hours of work as
11 specified under the approved shared work compensation plan in effect
12 for that week.

13 **Sec. 12.** RCW 50.60.100 and 1983 c 207 s 10 are each amended to
14 read as follows:

- 15 (1) The shared work weekly benefit amount shall be the product of
16 the regular weekly unemployment compensation benefit amount multiplied
17 by the percentage of reduction in the individual's usual weekly hours
18 of work;
- 19 (2) No individual is eligible in any benefit year for more than the
20 maximum entitlement established for benefits under this title,
21 including benefits under this chapter(~~, nor may an individual be paid~~
22 ~~shared work benefits for more than a total of twenty six weeks in any~~
23 ~~twelve month period under a shared work compensation plan~~);
- 24 (3) The shared work benefits paid an individual shall be deducted
25 from the total benefit amount established for that individual's benefit
26 year;
- 27 (4) Claims for shared work benefits shall be filed in the same
28 manner as claims for other benefits under this title or as prescribed
29 by the commissioner by rule;
- 30 (5) Provisions otherwise applicable to unemployment compensation
31 claimants under this title apply to shared work claimants to the extent
32 that they are not inconsistent with this chapter;
- 33 (6)(a) If an individual works in the same week for an employer
34 other than the shared work employer and his or her combined hours of
35 work for both employers are equal to or greater than the usual weekly
36 hours of work with the shared work employer, the individual shall not
37 be entitled to benefits under this chapter or title;

1 (b) If an individual works in the same week for both the shared
2 work employer and another employer and his or her combined hours of
3 work for both employers are less than his or her usual weekly hours of
4 work, the benefit amount payable for that week shall be the weekly
5 unemployment compensation benefit amount reduced by the same percentage
6 that the combined hours are of the usual weekly hours of work(~~(.—A~~
7 ~~week for which benefits are paid under this subsection shall count as~~
8 ~~a week of shared work benefits))~~);

9 (7) An individual who does not work during a week for the shared
10 work employer, and is otherwise eligible, shall be paid his or her full
11 weekly unemployment compensation benefit amount(~~(.—Such a week shall~~
12 ~~not be counted as a week for which shared work benefits were~~
13 ~~received))~~);

14 (8) An individual who does not work for the shared work employer
15 during a week but works for another employer, and is otherwise
16 eligible, shall be paid benefits for that week under the partial
17 unemployment compensation provisions of this title. (~~(Such a week~~
18 ~~shall not be counted as a week for which shared work benefits were~~
19 ~~received.))~~)

20 **PART IV - EXPERIENCE RATING AND CONTRIBUTION RATES**

21 **Sec. 13.** RCW 50.29.021 and 2008 c 323 s 2 are each amended to read
22 as follows:

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

26 (2)(a) An experience rating account shall be established and
27 maintained for each employer, except employers as described in RCW
28 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make
29 payments in lieu of contributions, taxable local government employers
30 as described in RCW 50.44.035, and those employers who are required to
31 make payments in lieu of contributions, based on existing records of
32 the employment security department.

33 (b) Benefits paid to an eligible individual shall be charged to the
34 experience rating accounts of each of such individual's employers
35 during the individual's base year in the same ratio that the wages paid

1 by each employer to the individual during the base year bear to the
2 wages paid by all employers to that individual during that base year,
3 except as otherwise provided in this section.

4 (c) When the eligible individual's separating employer is a covered
5 contribution paying base year employer, benefits paid to the eligible
6 individual shall be charged to the experience rating account of only
7 the individual's separating employer if the individual qualifies for
8 benefits under:

9 (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed
10 after having worked and earned wages in the bona fide work; or

11 (ii) RCW 50.20.050(2)(b) (v) through (x).

12 (3) The legislature finds that certain benefit payments, in whole
13 or in part, should not be charged to the experience rating accounts of
14 employers except those employers described in RCW 50.44.010, 50.44.030,
15 and 50.50.030 who have properly elected to make payments in lieu of
16 contributions, taxable local government employers described in RCW
17 50.44.035, and those employers who are required to make payments in
18 lieu of contributions, as follows:

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

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

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

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

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

5 (d) In the case of individuals who requalify for benefits under RCW
6 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
7 the disqualifying separation shall not be charged to the experience
8 rating account of the contribution paying employer from whom that
9 separation took place.

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

13 (f) With respect to claims with an effective date on or after the
14 first Sunday following April 22, 2005, benefits paid that exceed the
15 benefits that would have been paid if the weekly benefit amount for the
16 claim had been determined as one percent of the total wages paid in the
17 individual's base year shall not be charged to the experience rating
18 account of any contribution paying employer.

19 (g) The forty-five dollar increase paid as part of an individual's
20 weekly benefit amount as provided in section 2 of this act shall not be
21 charged to the experience rating account of any contribution paying
22 employer.

23 (h) Training benefits paid to an individual under section 4 of this
24 act shall not be charged to the experience rating account of any
25 contribution paying employer.

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

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

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

35 (iii) Is unemployed as a result of closure or severe curtailment of
36 operation at the employer's plant, building, worksite, or other
37 facility. This closure must be for reasons directly attributable to a

1 catastrophic occurrence such as fire, flood, or other natural disaster;
2 or

3 (iv) Continues to be employed on a regularly scheduled permanent
4 part-time basis by a base year employer and who at some time during the
5 base year was concurrently employed and subsequently separated from at
6 least one other base year employer. Benefit charge relief ceases when
7 the employment relationship between the employer requesting relief and
8 the claimant is terminated. This subsection does not apply to shared
9 work employers under chapter 50.06 RCW.

10 (b) The employer requesting relief of charges under this subsection
11 must request relief in writing within thirty days following mailing to
12 the last known address of the notification of the valid initial
13 determination of such claim, stating the date and reason for the
14 separation or the circumstances of continued employment. The
15 commissioner, upon investigation of the request, shall determine
16 whether relief should be granted.

17 **Sec. 14.** RCW 50.29.025 and 2007 c 51 s 1 are each amended to read
18 as follows:

19 (1) Except as provided in subsection (2) of this section, the
20 contribution rate for each employer subject to contributions under RCW
21 50.24.010 shall be determined under this subsection.

22 (a) A fund balance ratio shall be determined by dividing the
23 balance in the unemployment compensation fund as of the September 30th
24 immediately preceding the rate year by the total remuneration paid by
25 all employers subject to contributions during the second calendar year
26 preceding the rate year and reported to the department by the following
27 March 31st. The division shall be carried to the fourth decimal place
28 with the remaining fraction, if any, disregarded. The fund balance
29 ratio shall be expressed as a percentage.

30 (b) The interval of the fund balance ratio, expressed as a
31 percentage, shall determine which tax schedule in (e) of this
32 subsection shall be in effect for assigning tax rates for the rate
33 year. The intervals for determining the effective tax schedule shall
34 be:

1	Interval of the	
2	Fund Balance Ratio	Effective
3	Expressed as a Percentage	Tax Schedule
4	2.90 and above	AA
5	2.10 to 2.89	A
6	1.70 to 2.09	B
7	1.40 to 1.69	C
8	1.00 to 1.39	D
9	0.70 to 0.99	E
10	Less than 0.70	F

11 (c) An array shall be prepared, listing all qualified employers in
12 ascending order of their benefit ratios. The array shall show for each
13 qualified employer: (i) Identification number; (ii) benefit ratio;
14 (iii) taxable payrolls for the four calendar quarters immediately
15 preceding the computation date and reported to the department by the
16 cut-off date; (iv) a cumulative total of taxable payrolls consisting of
17 the employer's taxable payroll plus the taxable payrolls of all other
18 employers preceding him or her in the array; and (v) the percentage
19 equivalent of the cumulative total of taxable payrolls.

20 (d) Each employer in the array shall be assigned to one of twenty
21 rate classes according to the percentage intervals of cumulative
22 taxable payrolls set forth in (e) of this subsection: PROVIDED, That
23 if an employer's taxable payroll falls within two or more rate classes,
24 the employer and any other employer with the same benefit ratio shall
25 be assigned to the lowest rate class which includes any portion of the
26 employer's taxable payroll.

27 (e) Except as provided in RCW 50.29.026, the contribution rate for
28 each employer in the array shall be the rate specified in the following
29 tables for the rate class to which he or she has been assigned, as
30 determined under (d) of this subsection, within the tax schedule which
31 is to be in effect during the rate year:

	Percent of		Schedules of Contributions Rates								
	Cumulative		for Effective Tax Schedule								
	Taxable Payrolls		Rate								
	From	To Class	AA	A	B	C	D	E	F		
7	0.00	5.00	1	0.47	0.47	0.57	0.97	1.47	1.87	2.47	
8	5.01	10.00	2	0.47	0.47	0.77	1.17	1.67	2.07	2.67	
9	10.01	15.00	3	0.57	0.57	0.97	1.37	1.77	2.27	2.87	
10	15.01	20.00	4	0.57	0.73	1.11	1.51	1.90	2.40	2.98	
11	20.01	25.00	5	0.72	0.92	1.30	1.70	2.09	2.59	3.08	
12	25.01	30.00	6	0.91	1.11	1.49	1.89	2.29	2.69	3.18	
13	30.01	35.00	7	1.00	1.29	1.69	2.08	2.48	2.88	3.27	
14	35.01	40.00	8	1.19	1.48	1.88	2.27	2.67	3.07	3.47	
15	40.01	45.00	9	1.37	1.67	2.07	2.47	2.87	3.27	3.66	
16	45.01	50.00	10	1.56	1.86	2.26	2.66	3.06	3.46	3.86	
17	50.01	55.00	11	1.84	2.14	2.45	2.85	3.25	3.66	3.95	
18	55.01	60.00	12	2.03	2.33	2.64	3.04	3.44	3.85	4.15	
19	60.01	65.00	13	2.22	2.52	2.83	3.23	3.64	4.04	4.34	
20	65.01	70.00	14	2.40	2.71	3.02	3.43	3.83	4.24	4.54	
21	70.01	75.00	15	2.68	2.90	3.21	3.62	4.02	4.43	4.63	
22	75.01	80.00	16	2.87	3.09	3.42	3.81	4.22	4.53	4.73	
23	80.01	85.00	17	3.27	3.47	3.77	4.17	4.57	4.87	4.97	
24	85.01	90.00	18	3.67	3.87	4.17	4.57	4.87	4.97	5.17	
25	90.01	95.00	19	4.07	4.27	4.57	4.97	5.07	5.17	5.37	
26	95.01	100.00	20	5.40	5.40	5.40	5.40	5.40	5.40	5.40	

27 (f) The contribution rate for each employer not qualified to be in
 28 the array shall be as follows:

29 (i) Employers who do not meet the definition of "qualified
 30 employer" by reason of failure to pay contributions when due shall be
 31 assigned a contribution rate two-tenths higher than that in rate class
 32 20 for the applicable rate year, except employers who have an approved
 33 agency-deferred payment contract by September 30 of the previous rate
 34 year. If any employer with an approved agency-deferred payment
 35 contract fails to make any one of the succeeding deferred payments or
 36 fails to submit any succeeding tax report and payment in a timely
 37 manner, the employer's tax rate shall immediately revert to a
 38 contribution rate two-tenths higher than that in rate class 20 for the
 39 applicable rate year; and

40 (ii) For all other employers not qualified to be in the array, the

1 contribution rate shall be a rate equal to the average industry rate as
2 determined by the commissioner; however, the rate may not be less than
3 one percent.

4 (2) Beginning with contributions assessed for rate year 2005, the
5 contribution rate for each employer subject to contributions under RCW
6 50.24.010 shall be the sum of the array calculation factor rate and the
7 graduated social cost factor rate determined under this subsection, and
8 the solvency surcharge determined under RCW 50.29.041, if any.

9 (a) The array calculation factor rate shall be determined as
10 follows:

11 (i) An array shall be prepared, listing all qualified employers in
12 ascending order of their benefit ratios. The array shall show for each
13 qualified employer: (A) Identification number; (B) benefit ratio; and
14 (C) taxable payrolls for the four consecutive calendar quarters
15 immediately preceding the computation date and reported to the
16 employment security department by the cut-off date.

17 (ii) Each employer in the array shall be assigned to one of forty
18 rate classes according to his or her benefit ratio as follows, and,
19 except as provided in RCW 50.29.026, the array calculation factor rate
20 for each employer in the array shall be the rate specified in the rate
21 class to which the employer has been assigned:

Benefit Ratio		Rate	Rate
At least	Less than	Class	(percent)
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45
0.013750	0.015000	13	1.60

1	0.015000	0.016250	14	1.75
2	0.016250	0.017500	15	1.90
3	0.017500	0.018750	16	2.05
4	0.018750	0.020000	17	2.20
5	0.020000	0.021250	18	2.35
6	0.021250	0.022500	19	2.50
7	0.022500	0.023750	20	2.65
8	0.023750	0.025000	21	2.80
9	0.025000	0.026250	22	2.95
10	0.026250	0.027500	23	3.10
11	0.027500	0.028750	24	3.25
12	0.028750	0.030000	25	3.40
13	0.030000	0.031250	26	3.55
14	0.031250	0.032500	27	3.70
15	0.032500	0.033750	28	3.85
16	0.033750	0.035000	29	4.00
17	0.035000	0.036250	30	4.15
18	0.036250	0.037500	31	4.30
19	0.037500	0.040000	32	4.45
20	0.040000	0.042500	33	4.60
21	0.042500	0.045000	34	4.75
22	0.045000	0.047500	35	4.90
23	0.047500	0.050000	36	5.05
24	0.050000	0.052500	37	5.20
25	0.052500	0.055000	38	5.30
26	0.055000	0.057500	39	5.35
27	0.057500		40	5.40

28 (b) The graduated social cost factor rate shall be determined as
29 follows:

30 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection,
31 the commissioner shall calculate the flat social cost factor for a rate
32 year by dividing the total social cost by the total taxable payroll.
33 The division shall be carried to the second decimal place with the
34 remaining fraction disregarded unless it amounts to five hundredths or
35 more, in which case the second decimal place shall be rounded to the
36 next higher digit. The flat social cost factor shall be expressed as
37 a percentage.

1 (B) If, on the cut-off date, the balance in the unemployment
2 compensation fund is determined by the commissioner to be an amount
3 that will provide more than ten months of unemployment benefits, the
4 commissioner shall calculate the flat social cost factor for the rate
5 year immediately following the cut-off date by reducing the total
6 social cost by the dollar amount that represents the number of months
7 for which the balance in the unemployment compensation fund on the cut-
8 off date will provide benefits above ten months and dividing the result
9 by the total taxable payroll. However, the calculation under this
10 subsection (2)(b)(i)(B) for a rate year may not result in a flat social
11 cost factor that is more than four-tenths lower than the calculation
12 under (b)(i)(A) of this subsection for that rate year.

13 For the purposes of this subsection, the commissioner shall
14 determine the number of months of unemployment benefits in the
15 unemployment compensation fund using the benefit cost rate for the
16 average of the three highest calendar benefit cost rates in the twenty
17 consecutive completed calendar years immediately preceding the cut-off
18 date or a period of consecutive calendar years immediately preceding
19 the cut-off date that includes three recessions, if longer.

20 (C) The minimum flat social cost factor calculated under this
21 subsection (2)(b) shall be six-tenths of one percent, except that if
22 the balance in the unemployment compensation fund is determined by the
23 commissioner to be an amount that will provide:

24 (I) At least twelve months but less than fourteen months of
25 unemployment benefits, the minimum shall be five-tenths of one percent;
26 or

27 (II) At least fourteen months of unemployment benefits, the minimum
28 shall be five-tenths of one percent, except that, for employers in rate
29 class 1, the minimum shall be forty-five hundredths of one percent.

30 (ii)(A) Except as provided in (b)(ii)(B) of this subsection, the
31 graduated social cost factor rate for each employer in the array is the
32 flat social cost factor multiplied by the percentage specified as
33 follows for the rate class to which the employer has been assigned in
34 (a)(ii) of this subsection, except that the sum of an employer's array
35 calculation factor rate and the graduated social cost factor rate may
36 not exceed six and five-tenths percent or, for employers whose North
37 American industry classification system code is within "111," "112,"

1 "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six
2 percent through rate year 2007 and may not exceed five and seven-tenths
3 percent for rate year 2008 and thereafter:

4 (I) Rate class 1 - 78 percent;

5 (II) Rate class 2 - 82 percent;

6 (III) Rate class 3 - 86 percent;

7 (IV) Rate class 4 - 90 percent;

8 (V) Rate class 5 - 94 percent;

9 (VI) Rate class 6 - 98 percent;

10 (VII) Rate class 7 - 102 percent;

11 (VIII) Rate class 8 - 106 percent;

12 (IX) Rate class 9 - 110 percent;

13 (X) Rate class 10 - 114 percent;

14 (XI) Rate class 11 - 118 percent; and

15 (XII) Rate classes 12 through 40 - 120 percent.

16 (B) For contributions assessed beginning July 1, 2005, through
17 December 31, 2007, for employers whose North American industry
18 classification system code is "111," "112," "1141," "115," "3114,"
19 "3117," "42448," or "49312," the graduated social cost factor rate is
20 zero.

21 (iii) For the purposes of this section:

22 (A) "Total social cost" means the amount calculated by subtracting
23 the array calculation factor contributions paid by all employers with
24 respect to the four consecutive calendar quarters immediately preceding
25 the computation date and paid to the employment security department by
26 the cut-off date from the total unemployment benefits paid to claimants
27 in the same four consecutive calendar quarters. To calculate the flat
28 social cost factor for rate year 2005, the commissioner shall calculate
29 the total social cost using the array calculation factor contributions
30 that would have been required to be paid by all employers in the
31 calculation period if (a) of this subsection had been in effect for the
32 relevant period. To calculate the flat social cost factor for rate
33 years 2010 and 2011, the forty-five dollar increase paid as part of an
34 individual's weekly benefit amount as provided in section 2 of this act
35 shall not be considered for purposes of calculating the total
36 unemployment benefits paid to claimants in the four consecutive
37 calendar quarters immediately preceding the computation date.

1 (B) "Total taxable payroll" means the total amount of wages subject
2 to tax, as determined under RCW 50.24.010, for all employers in the
3 four consecutive calendar quarters immediately preceding the
4 computation date and reported to the employment security department by
5 the cut-off date.

6 (c) For employers who do not meet the definition of "qualified
7 employer" by reason of failure to pay contributions when due:

8 (i) The array calculation factor rate shall be two-tenths higher
9 than that in rate class 40, except employers who have an approved
10 agency-deferred payment contract by September 30th of the previous rate
11 year. If any employer with an approved agency-deferred payment
12 contract fails to make any one of the succeeding deferred payments or
13 fails to submit any succeeding tax report and payment in a timely
14 manner, the employer's tax rate shall immediately revert to an array
15 calculation factor rate two-tenths higher than that in rate class 40;
16 and

17 (ii) The social cost factor rate shall be the social cost factor
18 rate assigned to rate class 40 under (b)(ii) of this subsection.

19 (d) For all other employers not qualified to be in the array:

20 (i) For rate years 2005, 2006, and 2007:

21 (A) The array calculation factor rate shall be a rate equal to the
22 average industry array calculation factor rate as determined by the
23 commissioner, plus fifteen percent of that amount; however, the rate
24 may not be less than one percent or more than the array calculation
25 factor rate in rate class 40; and

26 (B) The social cost factor rate shall be a rate equal to the
27 average industry social cost factor rate as determined by the
28 commissioner, plus fifteen percent of that amount, but not more than
29 the social cost factor rate assigned to rate class 40 under (b)(ii) of
30 this subsection.

31 (ii) Beginning with contributions assessed for rate year 2008:

32 (A) The array calculation factor rate shall be a rate equal to the
33 average industry array calculation factor rate as determined by the
34 commissioner, multiplied by the history factor, but not less than one
35 percent or more than the array calculation factor rate in rate class
36 40;

37 (B) The social cost factor rate shall be a rate equal to the
38 average industry social cost factor rate as determined by the

1 commissioner, multiplied by the history factor, but not more than the
2 social cost factor rate assigned to rate class 40 under (b)(ii) of this
3 subsection; and

4 (C) The history factor shall be based on the total amounts of
5 benefits charged and contributions paid in the three fiscal years
6 ending prior to the computation date by employers not qualified to be
7 in the array, other than employers in (c) of this subsection, who were
8 first subject to contributions in the calendar year ending three years
9 prior to the computation date. The commissioner shall calculate the
10 history ratio by dividing the total amount of benefits charged by the
11 total amount of contributions paid in this three-year period by these
12 employers. The division shall be carried to the second decimal place
13 with the remaining fraction disregarded unless it amounts to five
14 one-hundredths or more, in which case the second decimal place shall be
15 rounded to the next higher digit. The commissioner shall determine the
16 history factor according to the history ratio as follows:

	History		History
	Ratio		Factor
			(percent)
	At least	Less than	
21 (I)		.95	90
22 (II)	.95	1.05	100
23 (III)	1.05		115

24 (3) Assignment of employers by the commissioner to industrial
25 classification, for purposes of this section, shall be in accordance
26 with established classification practices found in the (~~"Standard
27 Industrial Classification Manual" issued by the federal office of
28 management and budget to the third digit provided in the standard
29 industrial classification code, or in the~~) North American industry
30 classification system code.

31 **PART V - MISCELLANEOUS**

32 NEW SECTION. **Sec. 15.** This act is necessary for the immediate

1 preservation of the public peace, health, or safety, or support of the
2 state government and its existing public institutions, and takes effect
3 April 5, 2009.

4 NEW SECTION. **Sec. 16.** If any part of this act is found to be in
5 conflict with federal requirements that are a prescribed condition to
6 the allocation of federal funds to the state or the eligibility of
7 employers in this state for federal unemployment tax credits, the
8 conflicting part of this act is inoperative solely to the extent of the
9 conflict, and the finding or determination does not affect the
10 operation of the remainder of this act. Rules adopted under this act
11 must meet federal requirements that are a necessary condition to the
12 receipt of federal funds by the state or the granting of federal
13 unemployment tax credits to employers in this state.

14 NEW SECTION. **Sec. 17.** If any provision of this act or its
15 application to any person or circumstance is held invalid, the
16 remainder of the act or the application of the provision to other
17 persons or circumstances is not affected.

18 NEW SECTION. **Sec. 18.** Part headings used in this act are not any
19 part of the law.

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