

1, 1977. The remainder of this 1977 amendatory act shall take effect on July 1, 1978.

Passed the House June 10, 1977.

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CHAPTER 292

[Engrossed Senate Bill No. 2480]

UNEMPLOYMENT COMPENSATION

AN ACT Relating to unemployment compensation; amending section 7, chapter 3, Laws of 1971 and RCW 50.04.116; amending section 16, chapter 35, Laws of 1945 as last amended by section 1, chapter 264, Laws of 1957 and RCW 50.04.150; amending section 17, chapter 35, Laws of 1945 as amended by section 4, chapter 215, Laws of 1947 and RCW 50.04.160; amending section 28, chapter 35, Laws of 1945 and RCW 50.04.270; amending section 31, chapter 35, Laws of 1945 as amended by section 10, chapter 3, Laws of 1971 and RCW 50.04.300; amending section 44, chapter 35, Laws of 1945 as last amended by section 11, chapter 3, Laws of 1971 and RCW 50.12.050; amending section 60, chapter 35, Laws of 1945 as last amended by section 4, chapter 73, Laws of 1973 and RCW 50.16.010; amending section 2, chapter 1, Laws of 1971 as amended by section 7, chapter 73, Laws of 1973 and RCW 50.22.010; amending section 104, chapter 35, Laws of 1945 as last amended by section 1, chapter 35, Laws of 1972 ex. sess. and RCW 50.24.160; amending section 19, chapter 3, Laws of 1971 and RCW 50.44.020; amending section 20, chapter 3, Laws of 1971 as amended by section 2, chapter 35, Laws of 1972 ex. sess. and RCW 50.44.030; amending section 21, chapter 3, Laws of 1971 as last amended by section 1, chapter 67, Laws of 1975 1st ex. sess. and RCW 50.44.040; amending section 22, chapter 3, Laws of 1971 as last amended by section 17, chapter 288, Laws of 1975 1st ex. sess. and RCW 50.44.050; amending section 23, chapter 3, Laws of 1971 and RCW 50.44.060; adding new sections to chapter 35, Laws of 1945 and to chapter 50.04 RCW; adding new sections to chapter 35, Laws of 1945 and to chapter 50.20 RCW; adding new sections to chapter 3, Laws of 1971 and to chapter 50.44 RCW; adding new sections to chapter 35, Laws of 1945 and to chapter 50.98 RCW; creating a new section; repealing section 21, chapter 35, Laws of 1945, section 7, chapter 265, Laws of 1951, section 1, chapter 276, Laws of 1953, section 1, chapter 8, Laws of 1953 ex. sess., section 9, chapter 3, Laws of 1971 and RCW 50.04.200; repealing section 26, chapter 35, Laws of 1945 and RCW 50.04.250; repealing section 27, chapter 35, Laws of 1945, section 1, chapter 265, Laws of 1951 and RCW 50.04.260; making an appropriation; providing effective dates; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 7, chapter 3, Laws of 1971 and RCW 50.04.116 are each amended to read as follows:

The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada ((or the Virgin Islands)), and in the case of the Virgin Islands after December 31, 1971 and prior to January 1 of the year following the year in which the United States secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed "employment" under the provisions of RCW 50.04.110 or 50.04.120 or the parallel provisions of another state's law), if:

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States but:

(a) The employer is an individual who is a resident of this state; or

(b) The employer is a corporation which is organized under the laws of this state; or

(c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(3) None of the criteria (~~((fin))~~) in subsections (1) and (2) of this section is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state.

(4) An "American employer", for the purposes of this section, means a person who is:

(a) An individual who is a resident of the United States; or

(b) A partnership if two-thirds or more of the partners are residents of the United States; or

(c) A trust, if all of the trustees are residents of the United States; or

(d) A corporation organized under the laws of the United States or of any state.

Sec. 2. Section 16, chapter 35, Laws of 1945 as last amended by section 1, chapter 264, Laws of 1957 and RCW 50.04.150 are each amended to read as follows:

The term "employment" shall not include service performed in agricultural labor except as otherwise provided in section 3 of this 1977 amendatory act.

Agricultural labor is defined as services performed:

(1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution for consumption.

NEW SECTION. Sec. 3. There is added to chapter 35, Laws of 1945 and to chapter 50.04 RCW a new section to read as follows:

(1) Service performed in agricultural labor on and after January 1, 1978, for a farm operator or crew leader will be deemed services in employment if the farm operator or crew leader:

(a) Paid twenty thousand dollars or more as remuneration to individuals employed in agricultural labor during any calendar quarter in the current or preceding calendar year; or

(b) Employed ten or more individuals in agricultural labor for some portion of the day in each of twenty different calendar weeks in either the current or preceding calendar year regardless of whether they were employed at the same moment of time or whether or not the weeks were consecutive.

(2) A farm operator is the owner or tenant of the farmlands who stands to gain or lose economically from the operations of the farm. Employment will be considered employment by the farm operator unless it is established to the satisfaction of the commissioner that the services were performed in the employ of a crew leader. The risk of nonpersuasion is upon the farm operator. The operator will nonetheless be liable for contributions under RCW 50.24.130 even though services performed on the operator's farmlands would not be sufficient to bring the services under the term employment if services performed on the operator's land in the employ of a crew leader would be covered and the crew leader has failed to pay contributions on the services. For the purposes of the preceding sentence and RCW 50.24.130, all moneys paid or payable to the crew leader by the farm operator shall be deemed paid for services unless there is a written contract clearly specifying the amounts of money to be attributed to items other than services of the crew leader or the crew leader's employees.

(3) For the purposes of this section, a crew leader is a person who furnishes individuals to perform services in agricultural labor for the benefit of any other person, who pays for the services performed in agricultural labor (either on his or her own behalf or on behalf of the other person), and who has not made a written agreement making himself or herself an employee of the other person: PROVIDED, That no person shall be deemed a crew leader unless he or she is established independently of the person for whom the services are performed and either has a valid certificate of registration under the farm labor contractor registration act of 1963 or substantially all the members of his or her crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment which is provided by the crew leader.

Sec. 4. Section 17, chapter 35, Laws of 1945 as amended by section 4, chapter 215, Laws of 1947 and RCW 50.04.160 are each amended to read as follows:

~~((The term "employment" shall not include domestic service in a private home, local college club, or local chapter of a college fraternity or sorority: PROVIDED, HOWEVER, That))~~ Services performed in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority shall not be considered services in employment unless the services are performed after December 31, 1977, for a person who paid remuneration of one thousand dollars or more to individuals employed in this domestic service in any calendar quarter in the current or the preceding calendar year. The terms local college club and local chapter of a college fraternity or sorority shall not be deemed to include alumni clubs or chapters.

NEW SECTION. Sec. 5. There is added to chapter 35, Laws of 1945 and to chapter 50.04 RCW a new section to read as follows:

Services performed by aliens legally or illegally admitted to the United States shall be considered services in employment subject to the payment of contributions to the extent that services by citizens are covered.

NEW SECTION. Sec. 6. There is added to chapter 35, Laws of 1945 and to chapter 50.20 RCW a new section to read as follows:

Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the latter of the seasons (or similar periods).

Sec. 7. Section 28, chapter 35, Laws of 1945 and RCW 50.04.270 are each amended to read as follows:

The term "employment" shall not include casual labor not in the course of the employer's trade or business (labor which does not promote or advance the trade or business of the employer). Temporary labor in the usual course of an employer's trade or business or domestic services as defined in RCW 50.04.160 shall not be deemed to be casual labor.

Sec. 8. Section 31, chapter 35, Laws of 1945 as amended by section 10, chapter 3, Laws of 1971 and RCW 50.04.300 are each amended to read as follows:

"State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico.

Sec. 9. Section 44, chapter 35, Laws of 1945 as last amended by section 11, chapter 3, Laws of 1971 and RCW 50.12.050 are each amended to read as follows:

As used in this section the terms "other state" and "another state" shall be deemed to include any state or territory of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any foreign government and, where applicable, shall also be deemed to include the federal government or provisions of a law of the federal government, as the case may be.

As used in this section the term "claim" shall be deemed to include whichever of the following terms is applicable, to wit: "Application for initial determination", "claim for waiting period credit", or "claim for benefits".

The commissioner shall enter into an agreement with any other state whereby in the event an individual files a claim in another state against wages earned in employment in this state, or against wage credits earned in this state and in any other state or who files a claim in this state against wage credits earned in employment in any other state, or against wages earned in this state and in any other state, the claim will be paid by this state or another state as designated by the agreement in accordance with a determination on the claim as provided by the agreement and pursuant to the qualification and disqualification provisions of this title or under the provisions of the law of the designated paying state (including another state) or under such a combination of the provisions of both laws as shall be determined by the commissioner as being fair and reasonable to all affected interests, and whereby the wages of such individual, if earned in two or more states

(including another state) may be combined, and further, whereby this state or another state shall reimburse the paying state in an amount which shall bear the same ratio to the amount of benefits already paid as the amount of wage credits transferred by this state or another state, and used in the determination, bear to the total wage credits used in computing the claimant's maximum amount of benefits potentially payable.

Whenever any claim is filed by an individual involving the combination of wages or a reciprocal arrangement for the payment of benefits, which is governed by the provisions of this section, the employment security department of this state, when not designated as the paying state, shall promptly make a report to the other state making the determination, showing wages earned in employment in this state.

The commissioner is hereby authorized to make to another state and to receive from another state reimbursements from or to the unemployment compensation fund in accordance with arrangements made pursuant to the provisions of this section.

NEW SECTION. Sec. 10. There is added to chapter 35, Laws of 1945 and to chapter 50.20 RCW a new section to read as follows:

(1) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who has been lawfully admitted for permanent residence or otherwise is permanently residing in the United States under color of law (including an alien who is lawfully present in the United States as a result of the application of 8 U.S.C. Sec. 1153(a)(7) or 8 U.S.C. Sec. 1182(d)(5): **PROVIDED**, That any modifications to 26 U.S.C. Sec. 3304(a)(14) as provided by PL 94-566 which specify other conditions or other effective date than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by 26 U.S.C. Sec. 3301 shall be deemed applicable under this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence.

Sec. 11. Section 2, chapter 1, Laws of 1971 as amended by section 7, chapter 73, Laws of 1973 and RCW 50.22.010 are each amended to read as follows:

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after whichever of the following weeks occurs first:

(i) A week for which there is a national "on" indicator((:)); or

(ii) A week for which there is a state "on" indicator((:~~PROVIDED~~, That, as there was a state "on" indicator for the week which was three weeks prior to October 11, 1970, an extended benefit period began on that date:)); and

(b) Ends with the third week after the first week for which there is both a national "off" indicator and a state "off" indicator: **PROVIDED**, That no extended

benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of a state "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state(~~(: AND PROVIDED FURTHER, That prior to January 1, 1972, an extended benefit period may become effective and be terminated in this state solely by reason of a state "on" and a state "off" indicator, respectively)).~~

(2) There is a "national 'on' indicator" for a week if the United States secretary of labor determines that ((for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent)) for the period consisting of such week and the twelve weeks immediately preceding it, the rate of insured unemployment (seasonally adjusted) for all states equaled or exceeded four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period).

(3) There is a "national 'off' indicator" for a week if the United States secretary of labor determines that ((for each of the three most recent calendar months ending before such week, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent)) for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (seasonally adjusted) for all states was less than four and five-tenths percent (determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period).

(4) There is a "state 'on' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) ((as determined under the provisions of subsection (6) of this section)) either:

(a) Equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years(;) and equaled or exceeded four percent; or

(b) Equaled or exceeded ((four)) five percent.

(5) There is a "state 'off' indicator" for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks, the rate of insured unemployment (not seasonally adjusted) ((as determined under the provisions of subsection (6) of this section)) was either:

(a) Less than ((one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years)) four percent; or

(b) ((Less than)) Four percent or more but less than five percent and the rate of insured unemployment was less than one hundred twenty percent of the average of the rates for the corresponding thirteen week period ending in each of the two preceding calendar years.

~~(6) ("Rate of insured unemployment", for purposes of subsections (4) and (5) of this section, means the percentage derived by dividing the average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent thirteen consecutive week period, as determined by the commissioner on the basis of his reports to the United States secretary of labor; by the average monthly employment covered under this title for the first four of the most recent six completed calendar quarters ending before the end of such thirteen-week period:~~

~~(7))~~ "Regular benefits" means benefits payable to an individual under this title or ~~(;)~~ under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

~~((8))~~ (7) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen pursuant to 5 U.S.C. chapter 85) other than ((emergency benefits payable to an individual under the provisions of this chapter for weeks of unemployment in his eligibility period)) regular or additional benefits.

~~((9))~~ (8) "Additional benefits" are benefits ((other than regular benefits or extended benefits)) totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

~~((10))~~ (9) "Eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended benefit period that is in effect in this state and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such period.

~~((11))~~ (10) "Exhaustee" means an individual who, with respect to any week of unemployment in his eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and ex-servicemen under 5 U.S.C. chapter 85) in his current benefit year that includes such week, after the cancellation of some or all of his wage credits or the total or partial reduction of his rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b), an individual shall be deemed to have received in his current benefit year all of the regular benefits that were payable to him, or available to him, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his current benefit year, he may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he is not entitled to regular benefits with respect to such week of unemployment (although he may

be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his current benefit year), and he is otherwise an exhaustee within the meaning of this section with respect to his right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him during such year because his wage credits were canceled or his right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His benefit year having ended prior to such week, he has insufficient wages or employment, or both, on the basis of which he could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the Federal Unemployment Tax Act, or the similar provision in any other state law; and

(d) (i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the Railroad Unemployment Insurance Act, the Trade Expansion Act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of the Virgin Islands or Canada, unless the appropriate agency finally determines that he is not entitled to unemployment benefits under such law for such week.

~~((+2))~~ (11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954.

Sec. 12. Section 104, chapter 35, Laws of 1945 as last amended by section 1, chapter 35, Laws of 1972 ex. sess. and RCW 50.24.160 are each amended to read as follows:

Any employing unit for which services that do not constitute employment as defined in this title are performed may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for not less than two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title from and after the date stated in such approval(~~(: PROVIDED, HOWEVER, That any political subdivision of this state or any instrumentality of a political subdivision may elect coverage in accordance with the provisions of RCW 50.44.030 as a matter of right)~~). Services covered pursuant to this section shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such two calendar years, only if the employing unit files with the commissioner prior to the fifteenth day of January of such year a written application for termination of coverage(~~(: PROVIDED, FURTHER, That the provisions of RCW 50.04.200 to the contrary notwithstanding, public port districts may elect to cover the services of all or any distinct class or group of individuals in its employ on a contribution basis; such election shall preclude said port districts from~~

~~covering contemporaneous services of any other class or group of employees under the provisions of RCW 50.44.030)).~~

Sec. 13. Section 19, chapter 3, Laws of 1971 and RCW 50.44.020 are each amended to read as follows:

Commencing with benefit years beginning on or after January 28, 1971, services performed subsequent to September 30, 1969 in the employ of this state or any of its wholly owned instrumentalities or jointly owned instrumentalities of this state and another state or this state and one or more of its political subdivisions shall be deemed services in employment unless such services are excluded from the term employment by RCW 50.44.040.

The state shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (2) and (3) of RCW 50.44.060: PROVIDED, HOWEVER, That for weeks of unemployment beginning after January 1, 1979, the state shall pay in addition to the full amount of regular and additional benefits so attributable the full amount of extended benefits so attributable: PROVIDED, FURTHER, That no payment will be required from the state until the expiration of the twelve-month period following the end of the biennium in which the benefits attributable to such employment were paid. The amount of this payment shall include an amount equal to the amount of interest that would have been realized for the benefit of the unemployment compensation trust fund had such payments been received within thirty days after the day of the quarterly billing provided for in RCW 50.44.060(2)(a).

Sec. 14. Section 20, chapter 3, Laws of 1971 as amended by section 2, chapter 35, Laws of 1972 ex. sess. and RCW 50.44.030 are each amended to read as follows:

~~((Any political subdivision of this state or any instrumentality of a political subdivision may elect to cover the services of all or any distinct class or group of individuals in its employ: PROVIDED, HOWEVER, That public utility districts and public power authorities may not elect coverage under this section: PROVIDED, FURTHER, That any political subdivision of this state or any instrumentality of a political subdivision which elects to cover the services of any employees in an institution of higher education or hospital operated by said political subdivision or instrumentality shall cover the services of all employees in all institutions of higher education and all hospitals operated by said political subdivision or instrumentality.~~

~~For the purposes of this chapter the term "hospital" means any institution primarily engaged in the treatment of emotional or physical disability which provides, on a regular basis, twenty-four hour per day bed care under the supervision of licensed medical personnel and those components, of other institutions, which are primarily engaged in the treatment of emotional or physical disability and which provide, on a regular basis, twenty-four hour per day bed care under the supervision of licensed medical personnel.~~

~~For the purposes of this chapter, the term "institution of higher education" means an educational institution in this state which~~

~~(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;~~

~~(2) Is legally authorized within this state to provide a program of education beyond high school;~~

~~(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and~~

~~(4) Is a public or other nonprofit institution;~~

~~(5) Notwithstanding any of the foregoing subsections, all colleges and universities in this state are "institutions of higher education".~~

~~Services covered by the election performed subsequent to the date of such election shall be deemed services in employment unless such services are excluded from the term "employment" by RCW 50.44.040.~~

~~Any political subdivision or instrumentality electing coverage under this section shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (2) and (3) of RCW 50.44.060.~~

~~An election under the provisions of this section shall be for no less than two calendar years. A political subdivision or instrumentality of a political subdivision desiring to terminate coverage may do so by filing a written application for termination of coverage no later than the December fifteenth preceding the calendar year with respect to which such termination is to be effective. Termination of coverage will not relieve the political subdivision or instrumentality of a political subdivision of the obligation to reimburse the unemployment compensation fund for all benefits paid attributable to service performed during the covered period in the employ of such political subdivision or instrumentality of a political subdivision.))~~

~~(1) All services performed for any political subdivision or instrumentality of one or more political subdivisions of this state or one or more political subdivisions of this state and any other state after December 31, 1977, will be deemed to be services in employment to the extent coverage is not exempted under RCW 50.44.040.~~

~~(2) All such units of government shall file, before December 15, 1977, a written registration with the commissioner of the employment security department. Such registration shall specify the manner in which the unit of government will finance the payment of benefits. The elections available to counties, cities and towns are the local government tax, provided for in section 15 of this 1977 amendatory act, or payments in lieu of contributions, as described in RCW 50.44.060. The elections available to other units of government are the contributions plan in chapters 50.24 and 50.29 RCW, or payments in lieu of contributions, described in RCW 50.44.060. Under any election the governmental unit will be charged the full amount of regular and additional benefits attributable to its account plus one-half the amount of extended benefits so attributable: PROVIDED, HOWEVER, That beginning with weeks of unemployment commencing after January 1, 1979, the unit of government which is financing the payment of benefits under the payment in lieu of contributions option shall, in addition to paying the full amount of regular and additional benefits attributable to its account, pay the full amount of extended benefits so attributable.~~

(3) Any political subdivision or instrumentality of more than one political subdivision of this state is hereby authorized to enter into agreements with other political subdivisions or instrumentalities of more than one political subdivision of this state to form pool accounts for the purpose of making payments in lieu of contributions. These accounts shall be formed and administered in accordance with applicable regulations. The formation of such accounts shall not relieve the governmental unit of the responsibility for making required payments in the event that the pool account does not make the payments.

NEW SECTION. Sec. 15. There is added to chapter 3, Laws of 1971 and to chapter 50.44 RCW a new section to read as follows:

(1) Any county, city or town not electing to make payments in lieu of contributions shall pay a "local government tax." Taxes paid under this section shall be paid into an administratively identifiable account in the unemployment compensation fund. This account shall be self-sustaining. For calendar years 1978 and 1979 all such employers shall pay local government tax at the rate of one and one-quarter percent of all remuneration paid by the governmental unit for services in its employment. For each year after 1979 each such employer's rate of tax shall be determined in accordance with this section: PROVIDED, HOWEVER, That whenever it appears to the commissioner that the anticipated benefit payments from the account would jeopardize reasonable reserves in this identifiable account the commissioner may at the commencement of any calendar quarter, impose an emergency excess tax of not more than one percent of remuneration paid by the participating governmental units which "excess tax" shall be paid in addition to the applicable rate computed pursuant to this section until the calendar year following the next September 1.

(2) A reserve account shall be established for each such employer.

(a) The "reserve account" of each such employer shall be credited with tax amounts paid and shall be charged with benefit amounts charged in accordance with the formula set forth in RCW 50.44.060 as now or hereafter amended except that such employer's account shall be charged for the full amount of extended benefits so attributable for weeks of unemployment commencing after January 1, 1979. Such credits and charges shall be cumulative from January 1, 1978.

(b) After the cutoff date, the "reserve ratio" of each such employer shall be computed by dividing its reserve account balance as of the computation date by the total remuneration paid during the preceding calendar year for services in its employment. This division shall be carried to four decimal places, with the remaining fraction, if any, disregarded.

(3) A "benefit cost ratio" for each such employer shall be computed by dividing its total benefit charges during the thirty-six months ending on June 30 by its total remuneration during the three preceding calendar years: PROVIDED, That after August 31 in 1979 each employer's total benefit charges for the twelve months ending on June 30 shall be divided by its total remuneration paid in the last three quarters of calendar year 1978; and after August 31 in 1980 each employer's total benefit charges for the twenty-four months ending June 30 shall be divided by its total remuneration paid in the last three calendar quarters of 1978 and the four calendar quarters of 1979. Such computations shall be carried to four decimal places, with the remaining fraction, if any, disregarded.

(4) For each such employer its benefit cost ratio shall be subtracted from its reserve ratio. One-third of the resulting amount shall be subtracted from its benefit cost ratio. The resulting figure, expressed as a percentage and rounded to the nearest tenth of one percent, shall become its local government tax rate for the following rate year. For the rate year 1980 no tax rate shall be less than 0.6 percent nor more than 2.2 percent. For 1981 no tax rate shall be less than 0.4 percent nor more than 2.6 percent. For years after 1981 no tax rate shall be less than 0.2 percent or more than 3.0 percent. No individual rate shall be increased any more than 1.0 percent from one rate year to the next.

(5) Any county, city or town electing participation under this section at any time after December 15, 1977, shall be assigned a tax rate of one and one-quarter percent of total remuneration for the first eight quarters of the participation.

(6) Each year after 1980 the commissioner shall review the local government tax system and make recommendations to the legislature for changes in said system.

(7) "Local government tax" shall be deemed to be "contributions" to the extent that such usage is consistent with the purposes of this title. Such construction shall include but not be limited to those portions of this title and the rules and regulations enacted pursuant thereto dealing with assessments, interest, liens, collection procedures and remedies, administrative and judicial review, and the imposition of administrative, civil and criminal sanctions.

NEW SECTION. Sec. 16. There is added to chapter 3, Laws of 1971 and to chapter 50.44 RCW a new section to read as follows:

For the purposes of this chapter, the term "institution of higher education" means an educational institution in this state which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized within this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing subsections, all colleges and universities in this state are "institutions of higher education".

Sec. 17. Section 21, chapter 3, Laws of 1971 as last amended by section 1, chapter 67, Laws of 1975 1st ex. sess. and RCW 50.44.040 are each amended to read as follows:

The term "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030 shall not include service performed:

(1) In the employ of (a) a church or convention or association of churches, or (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) Before January 1, 1978, in the employ of a nongovernmental educational institution, approved or accredited by the state board of education, which is not an "institution of higher education" (, or in the employ of a nongovernmental preschool. A preschool is an organization devoted exclusively to the area of child development training of preschool-age children through an established curriculum of formal classroom and/or laboratory instruction)); or

(4) In a facility conducted for the purpose of carrying out a program of (a) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or (b) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(5) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or

(6) For a (~~hospital in a state prison or other state correctional institution by an inmate of the prison or correctional institution~~) custodial or penal institution by an inmate of the custodial or penal institution; or

(7) In the employ of a hospital, if such service is performed by a patient of such hospital; or

(8) In the employ of a school, college, or university, if such service is performed (a) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (b) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; or

(9) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employee, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or

(10) Before January 1, 1978, in the employ of the state or one of its instrumentalities or a political subdivision or one of its instrumentalities by an individual who is (a) occupying an elective office, or (b) who is compensated solely on a fee or per diem basis; or

(11) Before January 1, 1978, in the employ of the legislature of the state of Washington by an individual who is compensated pursuant to an agreement which provides for a guaranteed rate of compensation for irregular hours worked; or

(12) In the employ of a nongovernmental preschool which is devoted exclusively to the area of child development training of preschool age children through an established curriculum of formal classroom or laboratory instruction which did not employ four or more individuals on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week; or

(13) After December 31, 1977, in the employ of the state or any of its instrumentalities or political subdivisions of this state in any of its instrumentalities by an individual in the exercise of duties:

(a) As an elected official;

(b) As a member of the national guard or air national guard; or

(c) In a policymaking position the performance of the duties of which ordinarily do not require more than eight hours per week.

Sec. 18. Section 22, chapter 3, Laws of 1971 as last amended by section 17, chapter 288, Laws of 1975 1st ex. sess. and RCW 50.44.050 are each amended to read as follows:

Benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title: PROVIDED HOWEVER, That benefits based on service in an instructional, research or principal administrative capacity in an ~~((institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for an institution or institutions of higher education for both such academic years or both such terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term: PROVIDED FURTHER, That benefits based on service in an instructional, research, or principal administrative capacity in an educational institution other than an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity in an educational institution or institutions other than an institution of higher education for both such academic years or both such terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term: PROVIDED FURTHER, That))~~ educational institution shall not be paid to an individual for any week of unemployment suffered after December 31, 1977, which commences during the period between two successive academic years or during the period between two terms, successive or otherwise, or during a period of paid sabbatical leave provided in the individual's contract if the individual performs the services in the first of the academic years or terms and there is a contract or a reasonable assurance that the individual will

perform services in the capacity for any educational institution in the second of the academic years or terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term. Any employee of a common school district who is ~~((conclusively))~~ presumed to ~~((have been))~~ be re-employed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

Benefits shall not be paid based on services in any other capacity for an educational institution (other than an institution of higher education as defined in section 15 of this amendatory act) for any week of unemployment suffered after December 31, 1977, which commences during the period between two successive academic years or during the period between two terms, successive or otherwise, if the individual performs these services in the first of such academic years or terms and there is an individual contract or an individual written notice to the employee that the individual will perform services for an educational institution (other than an institution of higher education as defined in section 15 of this amendatory act) in the second of the academic years or terms; or during any nonwork period occurring during a term that does not diminish the individual's salary for the term.

Sec. 19. Section 23, chapter 3, Laws of 1971 and RCW 50.44.060 are each amended to read as follows:

Benefits paid to employees of "nonprofit organizations" shall be financed in accordance with the provisions of this section. For the purpose of this section and RCW 50.44.070, the term "nonprofit organization" is limited to those organizations described in RCW 50.44.010, and joint accounts composed exclusively of such organizations.

(1) Any nonprofit organization which is, or becomes subject to this title on or after January 1, 1972 shall pay contributions under the provisions of RCW 50.24.010, unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment compensation fund an amount equal to the full amount of regular and additional benefits and one-half of the amount of extended benefits paid to individuals for weeks of unemployment which begin during the effective period of such election to the extent that such payments are attributable to service in the employ of such nonprofit organization.

~~(a) ((Any nonprofit organization which is, or becomes, subject to this title on January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than one taxable year beginning with January 1, 1972: PROVIDED, That it files with the commissioner a written notice of its election within the thirty-day period immediately following such date.~~

~~(b))~~ Any nonprofit organization which becomes subject to this title after January 1, 1972 may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

~~((c))~~ (b) Any nonprofit organization which makes an election in accordance with paragraph((s)) (a) ~~((or (b)))~~ of this subsection will continue to be liable for

payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

~~((d))~~ (c) Any nonprofit organization which has been paying contributions under this title for a period subsequent to January 1, 1972 may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

~~((e))~~ (d) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

~~((f))~~ (e) The commissioner, in accordance with such regulations as he may prescribe, shall notify each nonprofit organization of any determination which he may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Any nonprofit organization subject to such determination and dissatisfied with such determination may file a request for review and redetermination with the commissioner within thirty days of the mailing of the determination to the organization. Should such request for review and redetermination be denied, the organization may, within ten days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this paragraph.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this section including either paragraph (a) or (b) of this subsection.

(a) At the end of each calendar quarter, the commissioner shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular and additional benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service in the employ of such organization.

(b) (i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this paragraph. Such method of payment shall become effective upon approval by the commissioner.

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the commissioner, the commissioner shall bill each nonprofit organization for an amount representing one of the following:

(A) ~~((For 1972, six-tenths of one percent of its total payroll for 1971.~~

~~(B) For years after 1972, such))~~ The percentage of its total payroll for the immediately preceding calendar year as the commissioner shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

~~((C))~~ (B) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the commissioner shall determine.

(iii) At the end of each taxable year, the commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each taxable year, the commissioner shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular and additional benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with paragraph (c). If the total payments exceed the amount so determined for the taxable year, all of the excess payments will be retained in the fund as part of the payments which may be required for the next taxable year, or a part of the excess may, at the discretion of the commissioner, be refunded from the fund or retained in the fund as part of the payments which may be required for the next taxable year.

(c) Payment of any bill rendered under paragraph (a) or (b) shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, and if not paid within such thirty days, the reimbursement payments itemized in the bill shall be deemed to be delinquent and the whole or part thereof remaining unpaid shall bear interest from and after the end of such thirty days at the rate and in the manner set forth in RCW 50.24.040.

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization. Any deduction in violation of the provisions of this paragraph shall be unlawful.

(3) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the total amount of regular and additional benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable for payments in lieu of contributions, the amount (~~(payable)~~) payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of paragraphs (a) (~~(or (b))~~) through (d) of this subsection.

(a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

(b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to

the individual by such employer bear to the total base-period wages paid to the individual by all of his base-period employers.

~~((4) Notwithstanding any other provisions in this section, any nonprofit organization which prior to January 1, 1969, paid contributions into the unemployment compensation fund, and pursuant to this section, elects, within thirty days after January 1, 1972 to make payments in lieu of contributions, shall not be required to make any such payment on account of any regular, additional, or extended benefits paid, on the basis of wages paid by such organization to individuals for weeks of unemployment which begin on or after the effective date of such election until the total amount of such benefits equals the amount of the positive balance in the experience rating account of such organization:))~~

NEW SECTION. Sec. 20. There is added to chapter 35, Laws of 1945 and to chapter 50.98 RCW a new section to read as follows:

(1) Effective with benefit years beginning on and after January 1, 1978, base year wages shall include remuneration paid for previously uncovered services: PROVIDED, That the maximum benefits payable to an individual as computed for the benefit year will be reduced to the extent that benefits were paid on the basis of identical calendar quarters of the previously uncovered services with respect to a claim filed by the individual under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974. Benefits will be paid, subject to the provisions of this title, based upon the previously uncovered services to the extent that the unemployment compensation trust fund will be reimbursed for the cost thereof by the federal government under section 121 of PL 94-566 and regulations published by the secretary of labor relating thereto.

(2) For the purposes of this section, the term "previously uncovered services" means services performed before January 1, 1978, which are not employment as defined in Title 50 RCW at any time during the one year period ending December 31, 1975, and which:

(a) Is agricultural labor as defined in RCW 50.04.150 and covered by section 3 of this 1977 amendatory act or domestic services as defined in and covered by RCW 50.04.160; or

(b) Is service performed by an employee of this state or a political subdivision of this state newly covered by this 1977 amendatory act or by an employee of a nonprofit educational institution which is not an institution of higher education as provided in RCW 50.44.040(3).

(3) Any nonprofit organization or governmental entity electing to make payments in lieu of contributions shall not be liable to make payments with respect to benefits paid any individual whose base year wages include wages for previously uncovered services as defined in subsection (2) (a) and (b) of this section to the extent that the unemployment compensation fund is reimbursed for the benefits under section 121 of PL 94-566.

(4) Benefits paid any individual whose base year wages include wages for previously uncovered services as defined in subsection (2) (a) and (b) of this section shall not be charged to the experience rating account of any contribution paying employer to the extent that the unemployment compensation fund is reimbursed for the benefits under section 121 of PL 94-566.

NEW SECTION. Sec. 21. There is added to chapter 35, Laws of 1945 and to chapter 50.98 RCW a new section to read as follows:

This 1977 amendatory act has been enacted to meet the requirements imposed by the federal unemployment tax act as amended by PL 94-566. Internal references in any section of this 1977 amendatory act to the provisions of that act are intended only to apply to those provisions as they existed as of the effective date of this 1977 amendatory act.

In view of the importance of compliance of this 1977 amendatory act with the federal unemployment tax act, any ambiguities contained herein should be resolved in a manner consistent with the provisions of that act. Considerable weight has been given to the commentary contained in that document entitled "Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976 PL 94-566", published by the United States department of labor, employment and training administration, and that commentary should be referred to when interpreting the provisions of this 1977 amendatory act.

NEW SECTION. Sec. 22. The commissioner is authorized, with the approval of the governor, to collect from the three-tenths of one percent increase in employer contributions provided in section 10 of chapter 33, Laws of 1977 1st ex. sess., for calendar years 1978 and 1979, nine and one-tenth percent of the additional revenue generated by the three-tenths of one percent increase, or so much thereof as may be deemed appropriate by the commissioner, to be deposited in the administrative contingency fund, one-half of such deposit to be extended for the purpose of operating a quality control program similar to the pilot quality program project which ended in 1976, in local employment security offices, and one-half for increased audits and investigations of employers subject to Title 50 RCW. In determining the amount of the deposit, if any, authorized by this section, the commissioner and the governor shall consider the impact any such deposit would have on employer contributions required by the federal government for the repayment of a loan from the federal unemployment trust fund.

NEW SECTION. Sec. 23. (1) The provisions of this act mandating coverage of employees of political subdivisions have been enacted to comply with the provisions of Public Law 94-566. Therefore, as provided in subsection (2), this mandatory feature shall be contingent on the existence of valid and constitutional federal law requiring the Secretary of Labor to refuse to certify as approved the employment security laws of this state if such laws did not continue such mandatory coverage.

(2) In the event the mandatory coverage feature for political subdivisions ceases to be necessary for compliance with valid and constitutional federal law, then the mandatory feature of this 1977 act shall cease to be effective as of the end of the next quarter following the quarter in which the mandatory feature contained in this 1977 act is not necessary for such compliance.

(3) In the event mandatory coverage ceases to be effective pursuant to subsection (2), then the sections, or subsections as the case may be, of this 1977 amendatory act shall to the extent that they apply to coverage of employees of political subdivisions be deemed nullified and the language of the sections being amended shall be deemed reinstated as the laws of this state.

(4) Benefits paid based on the services covered during the effective life of the mandatory coverage feature shall be financed as follows:

(a) If the political subdivision was financing payment of benefits on a reimbursable basis, benefits attributable to employment with the political subdivision shall be assessed to and paid by the political subdivision;

(b) If the political subdivision is a county, city, or town which elected financing pursuant to section 15 of this 1977 amendatory act, such political subdivision will pay "the local government tax" for all earnings by employees through the end of the calendar quarter in which the mandatory coverage is no longer effective pursuant to subsection (2);

(c) If the political subdivision was financing benefits by the contribution method it will pay contributions on wages earned by its employees through the end of the calendar quarter in which mandatory coverage is no longer effective pursuant to subsection (2).

Sec. 24. Section 60, chapter 35, Laws of 1945 as last amended by section 4, chapter 73, Laws of 1973 and RCW 50.16.010 are each amended to read as follows:

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund and an administrative contingency fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable. The unemployment compensation fund shall consist of

(1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,

(2) interest earned upon any moneys in the fund,

(3) any property or securities acquired through the use of moneys belonging to the fund,

(4) all earnings of such property or securities,

(5) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended,

(6) all money recovered on official bonds for losses sustained by the fund,

(7) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended,

(8) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and

(9) all moneys received for the fund from any other source.

All moneys in the unemployment compensation fund shall be commingled and undivided.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title after June 20, 1953, all fines and penalties collected pursuant to the provisions of this title, and all sums recovered on official bonds for losses sustained by the fund and sums collected pursuant to section 23 of this amendatory act: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. The amount in this fund (~~in excess of~~) that exceeds the amount deposited pursuant to section 23 of this amendatory act by one hundred thousand dollars

on the close of business of the last day of each calendar quarter shall be immediately transferred to this state's account in the unemployment trust fund. Moneys available in the administrative contingency fund shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

(a) The proper administration of this title and no federal funds are available for the specific purpose to which such expenditure is to be made, provided, the moneys are not substituted for appropriations from federal funds which, in the absence of such moneys, would be made available.

(b) The proper administration of this title for which purpose appropriations from federal funds have been requested but not yet received, provided, the administrative contingency fund will be reimbursed upon receipt of the requested federal appropriation.

NEW SECTION. Sec. 25. The provisions of section 11 of this 1977 amendatory act shall apply to the week ending May 21, 1977, and all weeks thereafter.

NEW SECTION. Sec. 26. Section 21, chapter 35, Laws of 1945, section 7, chapter 265, Laws of 1951, section 1, chapter 276, Laws of 1953, section 1, chapter 8, Laws of 1953 ex. sess., section 9, chapter 3, Laws of 1971 and RCW 50.04.200 are each repealed on January 1, 1978.

NEW SECTION. Sec. 27. The following acts or parts of acts are each repealed:

(1) Section 26, chapter 35, Laws of 1945 and RCW 50.04.250; and

(2) Section 27, chapter 35, Laws of 1945, section 1, chapter 265, Laws of 1951 and RCW 50.04.260.

NEW SECTION. Sec. 28. This 1977 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately: PROVIDED, That sections 6, 12, 14, 15, 16, and 18 of this 1977 amendatory act shall take effect on January 1, 1978.

Passed the Senate June 18, 1977.

Passed the House June 17, 1977.

Approved by the Governor June 18, 1977.

Filed in Office of Secretary of State June 18, 1977.

CHAPTER 293

[Substitute House Bill No. 866]

TEACHERS' RETIREMENT SYSTEM

AN ACT Relating to the teachers' retirement system; amending section 1, chapter 80, Laws of 1947 as last amended by section 149, chapter 275, Laws of 1975 1st ex. sess. and RCW 41.32.010; adding new sections to chapter 41.32 RCW; prescribing an effective date; and declaring an emergency.

Be it enacted by the Legislature of the State of Washington:

NEW SECTION. Section 1. LEGISLATIVE FINDING. The legislature finds and determines that those members first employed on or before September 30, 1977, shall not suffer any diminishment or loss of benefits or rights, whether current or prospective, as the result of the enactment of this 1977 amendatory act.