

tenance of the department of highways, other than salaries and wages.

Effective
immediately.

SEC. 13. This act is necessary for the immediate preservation of public peace, health and safety, for the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 13, 1935.

Passed the House March 13, 1935.

Approved by the Governor March 21, 1935.

CHAPTER 145.

[S. B. 350.]

UNEMPLOYMENT COMPENSATION.

AN ACT providing for relief from involuntary unemployment, declaring the public policy of the state; providing contributions by employers and employees for an unemployment compensation fund defining conditions of eligibility for and regulating benefits; establishing a procedure for the settlement of benefit claims and providing for court review thereof; creating an unemployment compensation commission and defining the powers and duties thereof; accepting the provisions of the Wagner-Peyser Act of the United States government permitting reciprocal benefit arrangements with the states; providing penalties for the violation of the provisions of this act; making appropriations for the payment of the expenses in the administration thereof, and for the payment of claims out of the special funds established herein and for purposes specified or to be specified in certain acts of congress; this act shall become effective in the State of Washington from and after the enactment date of the Wagner-Doughton bill which is now before the Congress of the United States.

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

Act cited as.

SECTION 1. This act shall be known and may be cited as the "Unemployment Compensation Act."

Necessity
of this act.

SEC. 2. Whereas, economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state; in-

voluntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. Social security requires protection against this greatest hazard of our economic life. This can be provided only by application of the insurance principle of sharing the risks, and by the systematic accumulation of funds during periods of employment to provide benefits for periods of unemployment, thus limiting the serious social consequences of poor relief assistance. The State of Washington, therefore, exercising herein its police and sovereign power endeavors by this act to remedy the widespread unemployment situation which now exists and to set up safeguards to prevent its recurrence in the years to come. The legislature hereby declares that in its considered judgment the public good and the general welfare of the workers of the state require the enactment of this measure, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, and that this act shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum.

SEC. 3. The following words and phrases, as used in this act, shall have the following meanings unless the context clearly requires otherwise: Definitions.

1. "Benefit" means the money payable to an employee as compensation for his wage losses due to unemployment as provided in this act. "Benefit."

2. "Commission" means the unemployment compensation commission established by this act, or its authorized representative. "Commis-
sion."

“Contributions.”

3. “Contributions” means the money payments to the state unemployment compensation fund required by this act.

“Eligibility.”

4. “Eligibility.” An employee shall be deemed eligible for benefits for any given week of his partial or total unemployment, occurring subsequent to any required waiting period, only when he is not disqualified by any provision of this act from receiving benefits for such week of unemployment.

“Employee.”

5. “Employee” means any person employed by an employer subject to this act and in employment subject to this act.

“Employer.”

6. “Employer” means any person, partnership, association, corporation, whether domestic or foreign, or the legal representative, trustee in bankruptcy, receiver, or trustee thereof, or the legal representative of a deceased person who or whose agent or predecessor in interest has employed at least four persons in employment subject to this act within each of thirteen or more calendar weeks in the year 1935 or any subsequent calendar year: *Provided*, That such employment in 1935 shall make an employer subject on January 1, 1936, and such employment in any subsequent calendar year shall make a newly subject employer subject for all purposes as of January first of the calendar year in which such employment occurs. Whenever the word employer is written thus—“employer” it shall indicate an employer who is liable under the provisions of this act to make a contribution to the unemployment compensation fund in this act provided. In determining whether an employer of any person in the state employs enough persons to be an “employer” subject hereto, and in determining for what contributions he is liable hereunder, he shall, whenever he contracts with any contractor or subcontractor for any work which is a part of his usual trade, occupation, profession, or business, be deemed to employ all per-

Subject to act.

sons employed by such contractor of [or] subcontractor on such work, and he alone shall be liable for the contributions measured by wages paid to such persons for such work; except as any such contractor or subcontractor, who would in the absence of the foregoing provisions be liable to pay said contributions, accepts exclusive liability for said contributions under an agreement with such employer made pursuant to regulations promulgated by the commission. All persons thus employed by an employer of any person within the state, in all of his several places of employment maintained within the state, shall be treated as employed by a single "employer" for the purposes of this act: *Provided, moreover,* That where any person, partnership, association, corporation, whether domestic or foreign, or the legal representative, trustee in bankruptcy, receiver, or trustee thereof, or the legal representative of a deceased person, either directly or through a holding company or otherwise, has a majority control or ownership of otherwise separate business enterprises employing persons in the state, all such enterprises shall be treated as a single "employer" for the purposes of this act. Any "employer" subject to this act shall cease to be subject hereto only upon a written application by him and after a finding by the commission that he has not within any calendar week within the last completed calendar year employed four or more persons in employment subject hereto. Any employer of any person within the state not otherwise subject to this act shall become fully subject hereto, upon filing by such employer with the commission of his election to become fully subject hereto for not less than two calendar years, subject to written approval of such election by the commission.

Partnerships, corporations, etc.

Cease to be subject to act.

7. "Employment" means any employment in which all or the greater part of the person's work

"Employment."

within the continental United States is or was customarily performed within this state, under any contract of hire, oral or written, express or implied, whether such person was hired and paid directly by the employer or through any other person employed by the employer, provided the employer had actual or constructive knowledge of such contract. Such employment shall include the person's entire employment in all states, including the District of Columbia. In the case of all other persons employed partly in this state and partly in other states, the term "employment" shall include the employment of such persons to the extent prescribed by regulations adopted by the commission. *Provided*, Employment as defined herein shall not include services performed in the employ of a corporation, community chest fund, or foundation, organization [organized] and operated exclusively for religious, charitable, scientific, literary, or educational purposes, no part of the net earnings of which inures [inures] to the benefit of any private shareholder or individual.

Shall not include.

"Employment office."

8. "Employment office" means that free public employment office operated by the state or branch thereof nearest to the employee's place of residence or employment, unless otherwise prescribed by the commission.

"Full-time weekly wage."

9. An employee's "full-time weekly wage" means the weekly earnings such employee would average from his employment if employed at the "hourly rate of earnings" and for the "full-time weekly hours" applicable to such employee.

"Hourly rate of earnings."

a. The applicable "hourly rate of earnings" shall be determined by averaging the employee's actual earnings for at least one hundred hours of employment by his most recent employers.

"Full-time weekly hours."

b. An employee's "full-time weekly hours" shall mean the standard maximum weekly hours

which can lawfully be worked by the employee under the applicable federal code of fair competition or under any applicable state code specifying lower maximum weekly hours. Where there is no code applicable, the commission shall determine the employee's full-time weekly hours by averaging his weekly hours for all calendar weeks in at least the past three months in which he worked thirty hours or more, or by such equitable method as the commission may by general rule prescribe for determining a full-time standard of not less than thirty weekly hours of benefit purposes. In the case of any employee who is found by the commission, at the time he becomes eligible for benefits, to be unable by reason of physical disability or by reason of continuing personal obligations other than employment to work half the full-time weekly hours which prevail in such establishment for full-time employees, the commission shall determine his full-time weekly hours for benefit purposes by averaging his weekly hours for all weeks in at least the past three months in which he worked.

10. "Fund" means the unemployment compensation fund established by this act, to which all contributions and from which all benefits required under this act shall be paid. "Fund."

11. "Partial unemployment." An employee shall be deemed "partially unemployed" in any calendar week of partial work if he fails to receive in wages and/or any other pay for personal services, including net earnings from self-employment for such week at least one dollar more than the amount of weekly benefits for total unemployment he might receive if totally unemployed and eligible. "Partial unemployment."

12. "Payroll" means the total amount of all wages payable by the employer to his employees, commencing with wages payable for employment "Payroll."

occurring after the employer becomes newly subject to this act.

"Total unemployment."

13. "Total unemployment." An employee shall be deemed "totally unemployed" in any calendar week in which he performs no wage-earning services whatsoever, and for which he receives no wages, and no other pay for personal services, including net earnings from self-employment, and in which he cannot reasonably return to any self-employment in which he has customarily been engaged.

"Unemployment administration fund."

14. "Unemployment administration fund" means the unemployment compensation administration fund established by this act.

"Wages."

15. "Wages" means every form of remuneration for employment received by a person from his employer, whether paid directly or indirectly by the employer, including salaries, commissions, bonuses, and the reasonable money value of board, rent, housing, lodging, payments in kind, and similar advantages.

"Waiting-period unit."

16. "Waiting-period-unit" means a period for which no benefits are payable but during which the employee is in all other respects eligible, consisting of either one week of total unemployment or two weeks of partial unemployment, required as a condition precedent to the receipt of benefits for subsequent unemployment, as prescribed in this act.

"Week."

17. "Week" means calendar week.

"Week of employment."

18. "Week of employment" means each calendar week occurring at least one year after contributions first become generally due under this act from employers then subject hereto, and occurring after any probationary period or periods required hereunder within which the person in question performed any employment subject to this act for any employer subject to this act: *Provided, however,* That any week occurring within the customary school vaca-

Not applicable to school students.

tion periods in which an employer employed an employee who attended a school, college or university in the last preceding school term or quarter, shall not be counted as a "week of employment" in determining the benefit rights of such employee under this act.

SEC. 4. 1. There is hereby created the unemployment compensation fund, to be administered by the commission without liability on the part of the state beyond the amounts paid into and earned by the fund. This fund shall consist of all contributions and money paid into and received by the fund as provided by this act, of property and securities acquired by and through the use of monies belonging to the fund, and of interest earned upon the monies belonging to the fund.

Creation of unemployment compensation fund.

2. The fund shall be administered in trust and used solely to pay benefits, upon vouchers drawn on the fund by the commission pursuant to general commission rules and no other disbursement shall be made therefrom. Such rules shall be governed by and consistent with any applicable constitutional requirements, but the procedure prescribed by such rules shall be deemed to satisfy any and all statutory requirements for specific appropriation or other formal release by state officers of state monies prior to their expenditure which might otherwise be applicable to withdrawals from the fund.

Rules of administration.

3. The commission shall designate a treasurer of the fund, who shall pay all vouchers duly drawn upon the fund, in such manner as the commission may prescribe. He shall have custody of all monies belonging to the fund and not otherwise held or deposited or invested pursuant to this act. The treasurer shall give bond conditioned on the faithful performance of his duties as treasurer of the fund, in a form prescribed by statute or approved by the attorney general, and in an amount specified by the

Commission to designate treasurer.

Bond required.

commission and approved by the governor. All premiums upon bonds required pursuant to this section when furnished by an authorized surety company or by a duly constituted governmental bonding fund shall be paid from the unemployment administration fund. The treasurer shall deposit and/or invest the fund under the supervision and control of the commission, subject to the provisions of this act.

Under supervision of commission.

Contributions deposited in fund.

4. All contributions paid under this act shall upon collection be deposited in or invested in the obligations of the "unemployment trust fund" of the United States government or its authorized agent, so long as said trust fund exists, notwithstanding any other statutory provision to the contrary. The commission shall requisition from the unemployment trust fund necessary amounts from time to time.

Date contributions payable.

SEC. 5. 1. On and after the first day of January, 1936, contributions shall accrue and become payable by each "employer" then subject to this act. Thereafter contributions shall accrue and become payable by any new "employer" on and after the date on which he becomes newly subject to this act. The contributions required hereunder shall be paid by each "employer" in such manner and at such times as the commission may prescribe.

Three per cent of payroll.

2. The contributions regularly payable by each "employer" shall be an amount equal to three per centum of his payroll, except as otherwise provided in this act.

1936-1937 contributions: how determined.

3. The contributions payable by each "employer" for the calendar years 1936 and 1937 shall be determined as follows: (a) if the Federal reserve board's adjusted index of total industrial production averages, for the year ending September 30, 1935, not more than 84 per centum of its average for the years 1923-25, inclusive, the commission shall certify that fact to the secretary of

state, and each "employer" shall contribute for the calendar year 1936 an amount equal to 1 per centum of his payroll; (b) if such index averages, for such year, more than 84 per centum but less than 95 per centum of such earlier average, such fact shall be so certified, and each employer shall contribute for the calendar year 1936 an amount equal to 2 per centum of his payroll; (c) if such index averages, for the year ending September 30, 1936, not more than 84 per centum of such earlier average, such fact shall be so certified, and each employer shall contribute for the calendar year 1937 an amount equal to 1 per centum of his payroll, except that in no event shall the measure of contributions for the calendar year 1937 be less than the measure of contributions for the calendar year 1936; (d) if such index averages, for the year ending September 30, 1936, more than 84 per centum but less than 95 per centum of such earlier average, such fact shall be so certified, and each employer shall contribute for the calendar year 1937 an amount equal to 2 per centum of his payroll, except that in no event shall the measure of contributions for the calendar year 1937, be less than the measure of contributions for the calendar year 1936.

4. Based on the actual contribution and benefit experience of employers under this act, the commission shall in the year 1941 and in each calendar year thereafter classify employers in accordance with said experience; and shall determine for each employer the rate of contributions which shall apply to him throughout the calendar year, pursuant to said experience and classification. The minimum contributions thus payable to the fund shall in no case amount to less than 2 per centum on the "employer's" payroll, and the average contribution rate of all "employers" shall be approximately 3 per centum on payroll for any calendar year. An "em-

Classifica-
tion of
employers.

Rate of con-
tributions
accordingly.

Unemployment hazard.

employer's" contribution rate shall in no case be reduced until there has been at least three calendar years throughout which his employees received or could have received benefits when and if unemployed and eligible. The commission shall investigate and classify industries, employers, and/or occupations with respect to the degree of unemployment hazard in each, taking due account of any relevant and measurable factors, and shall have power to apply any form of classification or rating system which in its judgment is best calculated to rate individually the unemployment risk most equitably for each employer or group of employers and to encourage the stabilization of employment. The general basis of classification proposed to be used for any calendar year shall be subject to discussion, adoption and publication in the manner prescribed in this act for all general commission rules.

Contributions of employee.

5. Beginning January 1, 1936, each employee employed by an "employer" subject to this act shall contribute to the fund one per centum (1%) of his wages. Each "employer" shall be responsible for withholding such contribution from the wages of his employees, shall show such deduction on his payroll record, and shall transmit all such contributions to the fund pursuant to general commission rules. Wherever in this act the term "contributions by 'employer'" is used it may be held to include the term "contributions by employee" if such interpretation is reasonably necessary to effectuate the purposes of this act.

Benefits payable.

SEC. 6. 1. After contributions have been due under this act for two years, benefits shall become payable from the fund to any employee who thereafter is or becomes unemployed and eligible for benefits, based on his weeks of employment as defined in this act, and shall be paid through the em-

ployment office at such times and in such manner as the commission may prescribe.

2. An employee totally unemployed and eligible in any week shall be paid benefits computed to the nearest half-dollar at the rate of fifty per centum of his full-time weekly wage, with maximum benefits of \$15.00 per week.

Total unemployment benefits.

3. An employee partially unemployed and eligible in any week shall be paid sufficient benefits so that his week's wages and any other pay for personal services, including net-earnings from self-employment and his benefits combined will be one dollar more than the weekly benefit to which he would be entitled if totally unemployed in that week.

Partial unemployment benefits.

4. The aggregate amount of benefits an employee may at any time receive shall be limited by the number of his past weeks of employment against which benefits have not yet been charged hereunder. Each employee's benefits shall be thus charged against his most recent weeks of employment available for this purpose. Each employee shall receive benefits in the ratio of one-quarter week of total unemployment benefits, or an equivalent amount, as determined by general commission rules, of benefits for partial unemployment or for partial and total unemployment combined, to each week of employment of such employee occurring within the 104 weeks preceding the close of the employee's most recent week of employment.

Aggregate amount of benefits.

Computation of.

5. Benefits shall be paid each employee for the weeks during which he is totally or partially unemployed and eligible for benefits, based on his past weeks of employment; but not more than fifteen weeks of total unemployment benefits, or an equivalent total amount, as determined by commission rules, of benefits for partial unemployment of [or] for partial and total unemployment combined, shall

Benefits limited.

be paid any employee for his weeks of unemployment occurring within any 52 consecutive weeks.

Lump sum
payments.

6. In lieu of paying to an eligible employee in weekly, or other installments the maximum amount of benefits to which his past weeks of employment might entitle him under this act in case he remained continuously unemployed and eligible, the commission may discharge the fund's entire benefit liability to such employee, based on his past weeks of employment, by paying him a lump sum equalling not less than fifty per centum nor more than eighty per centum of said maximum amount of benefits. But lump sum payments shall be thus made only in unusual cases such as when the employee has no prospect of securing further employment in the locality, but may secure employment elsewhere. The commission shall by general rules determine on what percentage basis and under what unusual conditions such lump sum payment shall be made, and each such case shall be subject to specific approval by the commission.

Additional
benefits.

7. An eligible employee who has received the maximum benefits permitted under subsection (5) shall receive additional benefits in the ratio of one week of total unemployment benefit, or its equivalent, to each unit of sixteen aggregate weeks of employment occurring within the 260 weeks preceding the close of the employee's most recent week of employment, and against which benefits have not already been charged under this act. Such additional benefits shall be charged against the employee's most recent weeks of employment available for this purpose.

Eligibility.

SEC. 7. (1) An employee shall be deemed eligible for benefits for any given week of his unemployment only if he has either (a) accumulated 40 weeks of employment subject hereto within the 104 weeks immediately preceding the date of his application for benefits, or (b) accumulated 26 weeks of employment subject hereto within the 52 weeks im-

mediately preceding the date of his application for benefits. Not eligible.

2. An employee shall not be eligible for benefits in any week of his partial or total unemployment unless in such week he is physically able to work and available for work, whenever duly called for work through the employment office. To prove such availability for work, every employee partially or totally unemployed shall register for work and shall file claim for benefits at the employment office, within such time limits and with such frequency and in such manner as the commission may by general rule prescribe. No employee shall be eligible for benefits for any week in which he fails without good cause to comply with such registration and filing requirements. A copy of the commission's rules covering such requirements shall be furnished by it to each "employer," who shall inform his employees of the terms thereof when they become unemployed. May file claim.

3. Benefits shall be payable to an employee only for his weeks of unemployment occurring subsequent to a "waiting period" whose duration shall in each case be determined as follows. An aggregate of 6 weeks waiting-period-unit shall be required of the employee within the 52 weeks preceding the start of any given week of unemployment. Requirements furnished employer.

There shall not be counted toward an employee's required waiting period or periods any week of total or partial unemployment in which he is ineligible for benefits under subsection (2), (4), (5), (6), or (7) of this section. Waiting period.

4. An employee shall not be eligible for benefits for any week in which his total or partial unemployment is directly due to a labor dispute still in active progress in the establishment in which he is or was last employed. Labor disputes.

5. An employee who has left his employment voluntarily without good cause connected with such

Voluntary
leaving of
employment.

employment shall be ineligible for benefits for the week in which such leaving occurred and for the eight next following weeks: *Provided, moreover,* That such weeks shall be charged as if benefits for total unemployment had been paid therefor, against the employee's most recent weeks of employment by the employer in question against which benefits have not previously been charged hereunder.

Discharged
for mis-
conduct.

6. An employee who has been discharged for proved misconduct connected with his employment shall thereby become ineligible for benefits under this act for the week in which such discharge occurred and for not less than the eight nor more than the sixteen next following weeks, as determined by the commission in each individual case: *Provided, moreover,* That the ineligible weeks thus determined shall be charged as if benefits for total unemployment had been paid therefor against the employee's most recent weeks of employment by the discharging "employer" against which benefits have not previously been charged hereunder, and shall also be counted against his maximum weeks of benefit per year.

Failure to
apply for or
accept suit-
able employ-
ment.

7. If an otherwise eligible employee fails, without good cause, either to apply for suitable employment when notified by the employment office, or to accept suitable employment when offered him, he shall thereby become ineligible for benefits for the week in which such failure occurred and for the three next following weeks: *Provided, moreover,* That such weeks shall be charged as if benefits for total unemployment had been paid therefor against the employee's most recent weeks of employment against which benefits have not previously been charged hereunder, and shall also be counted against his maximum weeks of benefit per year.

Defining
"suitable
employ-
ment."

"Suitable employment" shall mean any employment for which the employee in question is reason-

ably fitted, which is located within a reasonable distance of his residence or last employment, and which is not detrimental to his health, safety or morals. No employment shall be deemed suitable, and benefits shall not be denied under this act to any otherwise eligible employee for refusing to accept new work, under any of the following conditions: (a) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; (b) if the wage, hours, and other conditions of the work offered are less favorable to the employee than those prevailing for similar work in the locality; (c) if acceptance of such employment would either require the employee to join a company union or would interfere with his joining or retaining membership in any bona fide labor organization.

SEC. 8. (1) Benefit claims shall be filed at the employment office, pursuant to general commission rules.

2. A deputy designated by the commission shall promptly and in any event within 60 days unless commission expressly lengthens time, determine whether or not the claim is valid, and the amount of benefits apparently payable thereunder, and shall duly notify the employee and his most recent employer of such decision. Benefits shall be paid or denied accordingly, unless either party requests in writing a hearing within ten calendar days after such notification was delivered to him or was mailed to his last known address.

3. Unless such request for a hearing is withdrawn, the claim thus disputed shall be promptly decided, after affording both parties reasonable opportunity to be heard, by such appeal tribunal as the commission may designate or establish for this purpose. The parties shall be duly notified of such tribunal's decision, which shall be deemed a final decision by the commission except in cases where

Exceptions.

Benefit claims.

Deputy to determine claim.

May request hearing.

Hearing before tribunal.

Decision deemed final.

the commission acts on its own motion, or, pursuant to general rules, permits the parties to initiate further appeal or review.

Appeal
tribunals.

Composed
of.

Fees of
members.

Absence of
member.

Hearings:
governed
by rules.

Record
made of
claim.

May change
decision of.

4. To hear and decide disputed claims, the commission may establish one or more appeal tribunals consisting in each case of one full-time salaried examiner who shall serve as chairman, and of two other members, namely an employer or representative of employers and an employee or representative of employees, who shall each be paid a fee of not more than ten dollars per day of active service as such tribunal, plus necessary expenses and shall serve until replaced by the commission, except that no person shall hear any case in which he is a directly interested party. The chairman of such appeal tribunal may act for it at any session in the absence of one or both other members provided they have had due notice of such session.

5. The manner in which claims shall be presented the reports thereon required from the employee and from employers, and the conduct of hearings and appeals shall be governed by general commission rules, whether or not they conform to common law or statutory rules of evidence and other technical rules of procedure, for determining the rights of the parties. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing shall be taken down by a stenographer, but need not be transcribed unless the disputed claim is further appealed.

6. The commission shall have the power to remove or transfer the proceedings on any claim pending before a deputy, appeal tribunal, or examiner; and may on its own motion within thirty days after the date of any decision by a deputy, appeal tribunal, commissioner, or by the commission as a body affirm, reverse, change, or set aside any such de-

cision, on the basis of the evidence previously submitted in such case, or direct the taking of additional testimony, and make its final order in said proceeding.

7. Except as thus provided, any decision unless appealed pursuant to general commission rules shall, thirty days after the date of such decision, become the final decision of the commission, and all findings of fact made therein shall in the absence of fraud be conclusive; and such decision shall then be subject to judicial review solely on questions of laws. Such judicial review shall be barred unless the plaintiff party has used and exhausted the remedies provided hereunder and has commenced judicial action with notice to the commission within thirty days after a decision hereunder has become the final decision of the commission in the disputed case.

Judicial
review.

8. In the discharge of their duties under this section any deputy, any member of an appeal tribunal, and any examiner, commissioner, or duly authorized representative of the commission shall have power to administer oaths to persons appearing before them, take depositions, certify to official acts, and by subpoenas, served in the manner in which court subpoenas are served, to compel attendance of witnesses and the production of books, papers, documents, and records necessary or convenient to be used by them in connection with any disputed claim. Witness fees and other expenses involved in proceedings under this section shall be paid to the extent necessary, at rates specified by general commission rules, from the unemployment administration fund.

Powers of
deputies
and
members
of tribunal.

Expenses of
proceedings.

SEC. 9. Whenever the unemployment compensation commission has made any final decision on a claim, it shall promptly serve the claimant, "employer" or other person affected thereby, with a

Service of
decision.

copy thereof by mail, which shall be addressed to such claimant, employer or person at his last known address as shown by the records of said commission.

Appeal to
superior
court.

Within thirty (30) days after the final decision of the unemployment compensation commission has been communicated to such applicant, such applicant may appeal to the superior court of the county of his residence and such appeal shall be heard as a case in equity but upon such appeal only such issues of law may be raised as were properly included in his application for rehearing, or in the complete record in the commission. The proceedings of every such appeal shall be informal and summary, but full opportunity to be heard upon the issues of law shall be had before judgment is pronounced. Such appeal shall be perfected by filing with the clerk of the court a notice of appeal and by serving a copy thereof by mail, or personally, on the chairman of the unemployment compensation commission or upon such person as the commission may, by formal written order, designate to accept service on its behalf. The unemployment compensation commission shall, within twenty (20) days after receipt of such notice of appeal, serve and file its notice of appearance upon appellant or his attorney of record and such appeal shall thereupon be deemed at issue. No bond shall be required on such appeal or on appeals to the superior or the supreme court. When a notice of final decision has been placed in the United States mail it shall be deemed "communicated" to the applicant and the period for appeal shall thereupon commence.

Procedure.

Certified
copy of
record.

The unemployment compensation commission shall serve upon the appellant and file with the clerk of the court before trial, a certified copy of its complete record on the claim, which shall, upon being so filed, become a part of the record in such case.

If the court shall determine that the commission has acted within its power and has correctly construed the law, the decision of the commission shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the superior court shall refer the same to the commission with an order directing it to proceed in accordance with the findings of the court: *Provided*, That any award shall be in accordance with the schedule of unemployment benefits set forth in this act.

Determina-
tion of the
court.

It shall be unlawful for any attorney engaged in any such appeal to the courts as provided herein, to charge or receive any fee therein in excess of a reasonable fee, to be fixed by the court in the case, and if the decision of the commission shall be reversed or modified, such fee and the fees of witnesses and the costs shall be payable out of the unemployment administration fund. In other respects the practice in civil cases shall apply. Appeal shall lie from the judgment of the superior court to the supreme court as in other civil cases. In all court proceedings under or pursuant to this act the decision of the commission shall be prima facie correct and the burden of proof shall be upon the party attacking the same.

Reasonable
attorney
fee.

Appeal to
supreme
court.

Decision
prima facie
correct.

Whenever any appeal is taken from any decision of the unemployment compensation commission to any court, all expenses and costs incurred therein by the said commission, including fees for expert medical testimony, court reporter costs and attorney's fees, and all costs taxed against such commission, shall be paid out of the unemployment administration fund.

Payment
of costs.

SEC. 10. 1. There is hereby created a commission of three members, to be known as the unemployment compensation commission of Washington. The members of the commission shall be appointed by the governor within ninety days after the passage of this act. The commissioners thus appointed shall

Creation of
commission.

serve, as designated by the governor at the time of appointment, one for a term of two years, one for a term of four years, and one for a term of six years. At the expiration of such initial terms appointments shall be made for a term of six years in each case. Any appointment to a vacancy shall be for the unexpired term in question. No commissioner shall, during his term of office, engage in any other business, vocation, or employment, or serve as an officer or committee member of any political party organization. The governor may at any time, after public hearing, remove any commissioner for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office.

Terms.

Salary.

2. Each commissioner shall be paid a fixed monthly salary at the rate of four thousand dollars per year of service, from the unemployment administration fund.

Quorum.

3. Any two commissioners shall constitute a quorum to transact business. No vacancy shall impair the right of the remaining commissioners to exercise all of the powers of the commission, so long as a majority remain. The commission shall elect its chairman and determine its own organization and methods of procedure.

Administra-
tion of act;
duty of.

SEC. 11. 1. It shall be the duty of the commission to administer this act; and it shall have power and authority to adopt and enforce all reasonable rules and orders necessary or suitable to that end, and to employ any persons, make any expenditures, require any reports, and take any other action, within its means and consistent with the provisions of this act necessary or suitable to that end. Annually, by the first day of December, the commission shall submit to the governor a summary report covering the administration and operation of this act during the preceding calendar year or part of year and making such recommendations as the com-

Annual
report.

mission deems proper. Whenever the commission believes that a change in contribution and/or benefit rates will become necessary to protect the solvency of the fund, it shall at once inform the governor and the legislature thereof, and make recommendations accordingly.

Change of rates.

2. General rules, interpreting or applying this act and affecting all employers, employees, or other persons or agencies, shall be adopted by the commission only after discussion with a representative state-wide advisory council constituted as herein-after described or after public hearing before the commission of which notice has been given through the press in such manner as the commission determines, and by publishing an official notice once a week for two successive weeks in a legal newspaper of Thurston county, Washington, the first publication to be at least fifteen days previous to said public hearing. Such general commission rules shall, upon adoption by a majority of the commission, be duly recorded in its minutes and be filed with the secretary of state, and shall thereupon take legal effect. Such rules may be amended, in the same manner as is above provided for their adoption.

General rules.

3. The commission shall cause to be printed in proper form for distribution to the public the text of this act, the commission's general rules, its annual report to the governor, and any other material the commission deems relevant and suitable, and shall furnish the same to any person upon application therefor; and such printing and availability upon application shall be deemed a sufficient publication of the same.

Printing of act, rules, report, etc.

4. The commission is authorized, within its means, to appoint and fix the compensation of such officers, accountants, attorneys, experts and other persons as are necessary in the execution of its

Employees of commission.

functions. All positions in the administration of this act shall be filled by persons selected and appointed on a non-partisan merit basis, under rules and regulations of the commission. The commission shall not employ or pay any person who is serving as an officer or committee member of any political party organization. The commission shall fix the duties and powers of all persons thus employed, and may authorize any such person to do any act or acts which could lawfully be done by a commissioner. The commission may in its discretion bond any person handling moneys or signing checks hereunder.

Advisory
council.

5. The commission shall appoint a state-wide advisory council and local advisory councils, composed in each case of equal numbers of employer representatives and employee representatives and of such members representing the public generally as the commission may designate. Such councils shall aid the commission in formulating policies and discussing problems related to the administration of this act and in assuring impartiality, neutrality and freedom from political influences in the solution of such problems. Such advisory councils shall serve without compensation, but shall be reimbursed for any necessary expenses.

Regulariza-
tion of
employment.

6. It shall be one of the purposes of this act to promote the regularization of employment in enterprises, localities, industries and the state. The commission, with the advice and aid of its advisory councils, shall take all appropriate steps within its means to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise and assist in the establishment and operation, by municipalities, counties, school districts and the state, of reserves for public works to be used in

times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to employ experts and to carry on and publish the results of investigations and research studies.

7. Every employer of any person in this state shall keep true and accurate employment records of all persons employed by him, and of the weekly hours worked for him by each, and of the weekly wages paid by him to each such person. Such records shall be open to inspection by the commission or its authorized representatives at any reasonable time and as often as may be necessary. The commission may require from any employer any reports covering persons employed by him, on employment, wages, hours, unemployment and related matters, which the commission deems necessary to the effective administration of this act. Information thus obtained shall not intentionally be published or be open to public inspection in any manner revealing the employer's identity except in regular proceedings covering said employer's obligations, if any, under this act and any commission employee guilty of violating this provision shall be subject to the penalties provided in this act.

Employers
to keep
employment
records.

8. The attorney general shall be the general counsel of the unemployment compensation commission and it shall be the [his] duty to institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of the provisions of this act, and it shall be the duty of the attorney general to assign such assistants as may be necessary to the exclusive duty of assisting the said commission in the enforcement of this act. The salaries of said assistants shall be paid out of the unemployment administration fund.

Attorney
General.

Cooperation
with Federal
government.

9. The commission is hereby authorized and directed to cooperate in all necessary respects with the appropriate agencies and departments of the Federal government, in the administration of this act and of free public employment offices; and to make all reports thereon requested by any directly interested Federal agency or department; and to accept any sum allotted or apportioned to the state for such administration, and to comply with all reasonable Federal regulations governing the expenditure of such sums.

Establish-
ment of
employment
offices.

10. The commission shall establish and maintain such free public employment offices, including such branch offices, as may be necessary for the proper administration of this act. The commission shall maintain a division for this purpose. The existing free public employment offices of the state shall be transferred to the jurisdiction of such division; and upon such transfer all duties and powers conferred by law upon any other department, agency, or officer relating to the establishment, maintenance, and operation of free public employment offices shall be vested in such division. All monies thereafter made available by or received by the state for the state employment service shall be paid to and expended from the unemployment administration fund, and a special "employment service account" shall be maintained for this purpose as a part of said fund.

Wagner-
Peysen
act.

SEC. 12. 1. The state hereby accepts the provisions of the Wagner-Peyser Act, approved June 6, 1933 (48 Stat. 113, United States Code, Title 29, section 49 (c)), "An act to provide for the establishment of a national employment system and for cooperation with the states in the promotion of such system, and for other purposes," in conformity with section 4 thereof, and will observe and comply with the requirements of said act of congress.

2. There is hereby created, under the unemployment compensation commission, a division to be known as the "Washington State Employment Service," which shall be affiliated with the United States employment service. The said division is hereby designated and constituted the agency of this state for the purpose of the Wagner-Peyser Act. The said division shall be administered by a full-time salaried director, who is hereby given full power to cooperate with all authorities of the United States having power or duties under the said act of congress and to do and perform all things necessary to secure to this state the benefits of the said act of congress in the promotion and maintenance of a system of public employment offices.

Creation of Wash. State employment service.

3. All moneys made available by or received by this state under said Act of Congress shall be paid into a special "employment service account" in the unemployment administration fund, and said moneys are hereby appropriated and made available to the "Washington State Employment Service" to be expended only for the uses and purposes for which the same are received, as provided by this act and by said act of congress.

Moneys of.

SEC. 13. The commission is hereby authorized, subject to approval by the governor, to enter into reciprocal arrangements with the proper authorities, in the case of any other unemployment compensation system established by any state law or by an act of congress, as to persons who, after acquiring rights to benefits under this act or under such other system, newly come under this act, or under such other system, whereby such benefits or substantially equivalent benefits shall be paid for [or] both paid and financed in whole or in part through or by the fund of the unemployment compensation system newly applicable to such person. Such reciprocal

Reciprocal arrangements.

Shall be published.

arrangements shall be adopted and published by the commission in the same manner as its general rules.

Violations.

SEC. 14. 1. No agreement by an employee to waive his right to benefit or any other right under this act shall be valid. No agreement by any employee or by employees to pay all or any portion of the contributions required under this act from employers shall be valid. No "employer" shall make or require any deduction from wages to finance the contributions required of him, or require any waiver by an employee of any right hereunder. Any employee claiming a violation of this section may have recourse to the method set up in this act for deciding benefit claims; and the commission shall have power to take any steps necessary or suitable to correct and prosecute any such violation.

Recourse.

2. No employee shall be charged fees of any kind by the commission or its representatives, in any proceeding under this act. Any employee claiming benefits in any proceeding or court action may be represented by counsel; but no such counsel shall charge or receive for such services more than ten per centum of the maximum benefits at issue in such proceeding or court action.

Representa-
tion by
counsel.

Benefits not
assignable.

3. Benefits which are due or may become due under this act shall not be assignable before payment, but this provision shall not affect the survival thereof; and when awarded, adjudged, or paid shall be exempt from all claims of creditors, and from levy, execution, garnishment and attachment or other remedy now or hereafter provided for recovery or collection of debt, which exemption may not be waived.

Prompt
payment of
contributions
required.

SEC. 15. 1. If any employer fails to make promptly, by the date it becomes due hereunder, any payment required to be made by him under this act, he shall be additionally liable to the unemployment

administration fund for interest on such payment at the rate of one per centum per month from the date such payment became due until paid, pursuant to general commission rules.

2. In the event of an employer's dissolution, bankruptcy, adjudicated insolvency, receivership, assignment for benefit of creditors, judicially confirmed extension proposal or composition, or any analogous situation, contribution payments then or thereafter due under this act shall have the priority now or hereafter granted to preferred wage claims by law; but this subsection shall not impair the lien of any judgments entered upon any award.

Contributions have priority.

3. Upon complaint of the commission, the attorney general shall institute and prosecute the necessary actions or proceedings for the recovery of any contributions or other payments due hereunder; or, at his request and under his directions, the attorneys for the commission or the prosecuting attorney of any county in which the employer has a place of business shall institute and prosecute the necessary actions or proceedings for the recovery of any contributions or other payments due hereunder. The attorney general may by general order direct the attorneys for the commission to institute and prosecute for such period of time as he may direct, such actions and proceedings as may arise hereunder.

Recovery of contributions; attorney general.

Prosecuting attorneys.

SEC. 16. 1. Whoever willfully makes a false statement or representation to obtain or increase any benefit or other payment under this act, either for himself or for any other person, shall upon conviction be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment in the county jail not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation shall constitute a separate and distinct offense.

Misrepresentation to increase benefits.

Penalty.

Violations
by
employer.

2. Any employer of any person in this state or his agent, who willfully makes a false statement or representation to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required of such employer under this act, or who willfully fails or refuses to make any such contribution or other payment or to furnish any reports duly required hereunder or to appear or testify or produce records as lawfully required hereunder, or who makes or requires any deduction from wages to pay all or any portion of the contributions required from employers, or who tries to induce any employee to waive any right under this act, shall upon conviction be punished by a fine of not less than twenty nor more than two hundred dollars, or by imprisonment in the county jail not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation, and failure or refusal, and each such deduction from wages, and each such attempt to induce shall constitute a separate and distinct offense. If the employer in question is a corporation, the president, the secretary and the treasurer, the general manager, or officers exercising corresponding functions shall each be subject to the aforesaid penalties.

Penalty.

Other
violations.

3. Any violation of any provision of this act, for which a penalty is neither prescribed above nor provided by any other applicable statute, shall be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment in the county jail not longer than thirty days, or by both such fine and imprisonment.

Fines
collected.

4. On complaint of the commission the fines specified or provided in this section may be collected by the state in an action for debt. All fines thus collected shall be paid to the unemployment administration fund.

SEC. 17. 1. For the purpose of carrying out the provisions of this act and providing for the administration thereof, there is hereby created a revolving fund to be known as the "unemployment compensation administration fund" to consist of all moneys allotted to the state or received by the commission for the administration of this act, together with all fines collected pursuant to the administration of this act. This special fund shall be handled by the person designated as treasurer of the unemployment compensation commission and disbursed upon the order of such commission. This special fund shall be expended solely for the purpose herein specified and its balances shall not lapse at any time but shall remain continuously available to the commission for expenditure consistent herewith.

Creation of revolving fund.

2. All Federal moneys allotted or apportioned to the state by the Federal social insurance board, or any other agency, for the administration of this act shall be paid into the unemployment administration fund.

Federal moneys.

3. A special employment service account shall be maintained as a part of said fund.

Special employment service account.

4. All expenses whatsoever arising under the administration of this act, including the payment of the salaries of the members of the commission and its employees, the expenses of such auditing of their accounts as the commission may direct in the sum not to exceed three thousand dollars annually, and such sums as shall be certified by the state auditor in respect to the auditing of the accounts of the commission in a sum not to exceed three thousand dollars annually and of conducting the business of the commission shall be paid from the said unemployment administration revolving fund. All moneys shall be paid from such fund by check or voucher in such form and in such manner as shall be prescribed in the regulations of the commission.

Expenses of administration of act.

Appropriations.

SEC. 18. The following sums, or so much thereof as shall severally be found necessary, are hereby appropriated for the unemployment compensation commission out of any moneys now or within the ensuing fiscal biennium to come into the several funds in the state treasury hereinafter named, for the payment of salaries of certain officers and employees of the commission or of the state assigned exclusively to the commission and for the general operation of the commission, including its sundry civil expenses and administration which may occur in this administration; and for the appropriations to be specified in certain acts of congress concerning unemployment compensation and for the miscellaneous purposes in this act designated and mentioned for the fiscal biennium beginning April 1, 1935, and ending March 31, 1937:

General administration of act.

1. To the unemployment compensation commission from the general fund for the general administration of this act, the sum of one hundred thousand dollars (\$100,000).

Unemployment service account.

2. To the unemployment compensation commission from the general fund for the employment service account of the unemployment administration fund, the sum of one hundred thousand dollars (\$100,000).

General administration of act.

3. To the unemployment compensation commission from any receipts by the state from the United States government or any of its agencies for the general administration of this act, the sum of two hundred and fifty thousand dollars (\$250,000).

Revolving fund.

4. To the unemployment compensation commission from the unemployment compensation fund as a revolving fund, the sum of five hundred thousand dollars (\$500,000): *Provided, however,* That disbursements from the unemployment compensation fund shall not exceed receipts by the state for such fund from the United States government and the

contributions by "employers" to such fund under the provisions of this act.

SEC. 19. The treasurer designated by the unemployment compensation commission shall be the custodian of all funds appropriated for or otherwise coming into the possession of the commission, including all the unemployment compensation fund, the unemployed administration fund, the employment service account and such other fund, or funds, as may from time to time come into the possession of the commission from the United States government, the State of Washington, any municipal corporations or any individual. The said treasurer shall give to the commission surety bonds, secured by surety companies authorized to do business in the State of Washington, in a form approved by the attorney general and in an amount specified by the commission and approved by the governor, which shall be equal at least to the total amount of the moneys in the various funds at any one time, said bonds to be conditioned on the faithful performance of his duties as treasurer of the commission, premiums thereon to be paid as provided in section 4.

Custodian
of funds.

Bond
required.

SEC. 20. After the unemployment compensation commission has been organized in accordance with the provisions of this act none of the provisions of section 5501 of Remington's Revised Statutes shall be applicable to any funds or moneys received by or collected by the unemployment compensation commission, by contributions of "employers" to the unemployment compensation fund or to any funds which may be available for the use of said commission by the United States government or any of its agents or instrumentalities. Revenues received from such sources may be expended by said commission without the necessity of any special appropriations.

§ 5501, Rem.
Rev. Stat.
not appli-
cable to
funds.

The treasurer shall issue checks and warrants on the various funds for the various expenditures of

Expendi-
tures by
warrants
and checks.

the commission. Said warrants and/or checks to be signed by the treasurer and chairman of the commission or by the treasurer and such other person as shall be designated by the commission to countersign said checks or warrants: *Provided*, That in case of the absence or disability of the treasurer any two of the commissioners may sign said checks: *And provided, further*, That the commission may delegate to any person, in accordance with its rules and regulations, the power and authority to draw checks in the sum of not over one hundred dollars in payment of benefits to employees.

Deposit of
funds in
banks.

SEC. 21. All funds coming into the possession of the unemployment compensation commission shall be deposited by the treasurer in such banks and financial institutions as it may select throughout the State of Washington, which banks and financial institutions shall give to the commission surety bonds secured by surety companies and authorized to do business in the State of Washington, or collateral eligible as security for the deposit of said funds, in at least the full amount of the deposit in such banks or financial institutions: *Provided*, That nothing in this section contained shall prevent the treasurer from making investments as provided in section 4 of this act.

May invest
funds.

Right to
repeal or
amend.

SEC. 22. The legislature reserves the right to amend or repeal all or any part of this act at any time; and there shall be no vested private right of any kind against such amendment or repeal.

Partial
invalidity.

SEC. 23. If any clause, part or section of this act shall be adjudged invalid, such judgment shall not affect nor invalidate the remainder of the act but shall be confined in its operation to the clause, part or section directly involved in the controversy in which such judgment was rendered. If the operation of any clause, part or section of this act shall

be held to impair the obligation of contract, or to deny to any person any right or protection secured to him by the constitution of the United States of America, or by the constitution of the State of Washington, it is hereby declared that, had the invalidity of such clause, part or section been considered at the time of the enactment of this act, the remainder of the act would nevertheless have been adopted without any and all such invalid clauses, parts or sections.

SEC. 24. This act is to become operative in the State of Washington from and after the enactment date of the Wagner-Doughton bill which is now before the congress of the United States. Effective date.

Passed the Senate March 8, 1935.

Passed the House March 12, 1935.

Approved by the Governor March 21, 1935.

CHAPTER 146.

[S. B. 287.]

OFFICE BUILDING FOR STATE LIQUOR CONTROL BOARD.

AN ACT authorizing the state capitol committee to erect an office building on "Capitol Place" and authorizing the Washington state liquor control board to pay over to the state capitol committee from the liquor revolving fund the sum of two hundred thousand dollars (\$200,000) for such purpose and as within the act provided, and declaring an emergency.

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

SECTION 1. The state capitol committee is authorized and empowered to erect and complete one of the office buildings provided for in the group plan adopted by the capitol committee pursuant to chapter 59 of the Session Laws of 1911 on the site designated in the statutes as "Capitol Place," for use of the Washington State Liquor Control Board, State capitol committee.
Erection of office building.
Use of.