

Statutes
repealed.

SEC. 30. That sections 175 to 185, both inclusive, of chapter 255, Laws of 1927, (Remington's Revised Statutes, section 7797-175 to section 7797-185) are hereby repealed.

Passed the Senate March 5, 1937.

Passed the House March 9, 1937.

Approved by the Governor March 16, 1937.

CHAPTER 162.

[S. S. B. 113.]

UNEMPLOYMENT COMPENSATION ACT.

AN ACT providing for relief from involuntary unemployment; declaring the public policy of the state; providing for contributions by employers and 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 the office of director and defining his powers and duties; accepting the provisions of the Wagner-Peyser Act of the Congress of the United States; permitting reciprocal benefit arrangements with the states; providing penalties; making appropriations for the payment of the expenses in the administration thereof; providing for the receipt of Federal monies for 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, and declaring that this act shall take effect immediately.

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

Title.

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

Purpose.

SEC. 2. Whereas, economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this state; involuntary 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 maintaining purchasing powers and 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 years to come. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, 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.

Exercise of
police power.

SEC. 3. (a) *Payment of Benefits.*—Twenty-four months after the date when contributions first accrue under this act, benefits shall become payable from the fund. All benefits shall be paid through employment offices in accordance with such regulations as the director may prescribe.

Payment of
benefits.

(b) *Weekly Benefit Amount for Total Unemployment.*—Each eligible individual who is totally unemployed in any week shall be paid with respect to such week, benefits at the rate of fifty per centum of his full time weekly wages but not more than \$15.00 per week, nor less than either \$7.00 or three-

Weekly
benefit for
total un-
employment.

fourths ($\frac{3}{4}$) of his full time weekly wage, whichever is the lesser.

Weekly benefit for partial unemployment.

(c) *Weekly Benefit for Partial Unemployment.*—Each eligible individual who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount equal to the difference between this weekly benefit amount and five-sixths ($\frac{5}{6}$) of all remuneration (as limited by section 19 (k)) earned by him for such week.

Benefits in seasonal and irregular employment.

(d) *Benefits in Seasonal and Irregular Employment.*

(1) As used in this section the term “seasonal industry” means an occupation or industry in which, because of the seasonal nature thereof it is customary to operate only during a regularly recurring period or periods of less than forty-five weeks in a calendar year. The director shall, after investigation and hearing, determine, and may thereafter from time to time redetermine, the longest seasonal period or periods during which, by the best practice of the occupation or industry in question, operations are conducted. Until such determination by the director, no occupation or industry shall be deemed seasonal.

The term “seasonal worker” means an individual who is ordinarily engaged in a seasonal industry and who, during the portion or portions of the year when such industry is not in operation, is ordinarily not engaged in any other work.

(2) When the director has determined such seasonal period or periods, he shall also fix the right to benefits, the conditions required for the payment of benefits to unemployed persons in such occupation or industry, and the charge to be made against the employer’s account as provided in section 7 (c), and shall modify the requirements of the right to benefits and the conditions required for the payment

of benefits in such manner that the total benefits paid such persons will be in reasonable proportion to the total contributions to the fund of employers in such occupation or industry.

(e) *Determination of Full Time Weekly Wage.*

—(1) The full time weekly wage of any individual means the weekly wages that such individual would receive if he were employed at the most recent wage rate earned by him for employment by an employer during the period prescribed pursuant to paragraph (3) of this subsection, and for the customary scheduled full time weekly hours prevailing for his occupation in the enterprise in which he last earned wages for employment by an employer during the same period.

Determina-
tion of full-
time weekly
wage.

(2) If the director finds that the full time weekly wage, as above defined, would be unreasonable or arbitrary or not readily determinable with respect to any individual the full time weekly wage of such individual shall be deemed to be one-thirteenth (1/13) of his total wage for employment by employers during that quarter in which such total wages were highest during the period prescribed pursuant to paragraph (3) of this subsection.

(3) The full time weekly wage of any individual shall be determined and redetermined at such reasonable times as the director may find necessary to administer this act and may by regulation prescribe. The period hereinabove referred to shall consist of the next to the last completed calendar quarter immediately preceding the date with respect to which an individual's full time weekly wage is determined, and such of the seven immediately preceding consecutive calendar quarters as the director may by regulation prescribe.

(f) *Duration of Benefits.*—The director shall compute wage credits for each individual by crediting him with the wages earned by him for employ-

Duration of
benefits.

ment by employers during each quarter, or \$390.00, whichever is the lesser. Benefits paid to any eligible individual shall be charged, in the same chronological order as such wages were earned, against one-sixth (1/6) of his wage credits which are based upon wages earned during his base period and which have not been previously charged hereunder. The maximum total amount of benefits payable to any eligible individual during any benefit year shall not exceed whichever is the lesser of (1) 16 times his weekly benefit amount, and (2) one-sixth (1/6) of such uncharged wage credits with respect to his base period.

**Part time
workers.**

(g) *Part Time Workers.*—(1) As used in this subsection the term “part time worker” means an individual whose normal work is in an occupation in which his services are not required for the customary scheduled full time hours prevailing in the establishment in which he is employed or who, owing to personal circumstances, does not customarily work the customary scheduled full time hours prevailing in the establishment in which he is employed.

(2) The director shall prescribe fair and reasonable general rules applicable to part time workers for determining their full time weekly wage and the total wages for employment by employers required to qualify such workers for benefits. Such rules shall, with respect to such workers, supersede any inconsistent provisions of this act, but, so far as practicable, shall secure results reasonably similar to those provided in the analogous provisions of this act.

**Benefit
eligibility
conditions.**

SEC. 4. *Benefit Eligibility Conditions.*—An unemployed individual shall be eligible to receive benefits with respect to any week only if the director finds that:

(a) He has registered for work at and thereafter has continued to report at an employment office in accordance with such regulations as the director may prescribe;

(b) He has made a claim for benefits in accordance with the provisions of section 6 (a) of this act;

(c) He is able to work, and is available for work;

(d) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of two weeks (and for the purposes of this subsection, two weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment). Such weeks of total or partial unemployment need not be consecutive. No week shall be counted as a week of total unemployment for the purpose of this subsection:

(1) If benefits have been paid with respect thereto;

(2) Unless the individual was eligible for benefits with respect thereto in all respects except for the requirements of subsections (b) and (e) of this section;

(3) Unless it occurs within the thirteen consecutive weeks preceding the week for which he claims benefits: *Provided*, That this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment: *And provided further*, That no individual shall be required to accumulate more than five waiting period weeks during five consecutive calendar quarters;

(4) Unless it occurs after benefits first could become payable to any individual under this act.

(e) He has within his base year earned wages of not less than sixteen times his weekly benefit amount: *Provided*, That if the director finds that during such base year any individual has been incapable of work because of some physical or mental disability, or has been engaged for the greater part

of his working time in any week in self employment or in performing services not subject to this act, such base year shall be extended by the duration of such incapacity, self employment or services. No such extension shall exceed fifty-two additional weeks.

Disqualifica-
tion for
benefits.

SEC. 5. *Disqualification for Benefits.*—An individual shall be disqualified for benefits:

(a) For the calendar week in which he has left work voluntarily without good cause, if so found by the director, and for the two weeks which immediately follow such week (in addition to the waiting period);

(b) For the calendar week in which he has been discharged for misconduct connected with his work, if so found by the director, and for not less than the two nor more than the five weeks which immediately follow such week (in addition to the waiting period), as determined by the director in each case according to the seriousness of the misconduct;

(c) Where an individual has left work voluntarily or has been discharged for misconduct not because of any labor activity or because of membership in any *bona fide* labor organization connected with his work he shall be disqualified for benefits during the periods herein provided, until he again earns such wages that benefits will not otherwise be payable;

(d) If the director finds that he has failed, without good cause, either to apply for available, suitable work when so directed by the employment office or the director, or to accept suitable work when offered him, or to return to his customary self employment (if any) when so directed by the director. Such disqualification shall continue for the calendar week in which such failure occurred and for not less than the one nor more than the five weeks which immediately follow such week (in addition to the

waiting period) as determined by the director according to the circumstances in each case.

(1) In determining whether or not any such work is suitable for an individual, the director shall consider the degree of risk involved to his health, safety, and morals, his physical fitness and prior training, his experience and prior earnings, his length of unemployment and prospects for securing local work in his customary occupation, and the distance of the available work from his residence.

(2) Notwithstanding any other provisions of this act, no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual 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 remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; (c) if as a condition of being employed the individual would be required to join a company union or to resign from or refrain from joining any *bona fide* labor organization.

(e) For any week with respect to which the director finds that his total or partial unemployment is due to a stoppage of work which exists because of a labor dispute at the factory, establishment, or other premises at which he is or was last employed: *Provided*, That this subsection shall not apply if it is shown to the satisfaction of the director that:

(1) He is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and

(2) He does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs,

any of whom are participating in or financing or directly interested in the dispute: *Provided*, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purposes of this subsection, be deemed to be a separate factory, establishment, or other premises.

(f) For any week with respect to which he is receiving or has received remuneration in the form of:

- (1) Remuneration in lieu of notice;
- (2) Compensation for temporary partial disability under the Industrial Insurance Law of any state or under a similar law of the United States; or
- (3) Old-age benefits under title II of the Social Security Act, as amended or similar payments under any Act of Congress: *Provided*, That if such remuneration is less than the benefits which would otherwise be due under this act, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration.

Claims for benefits.

SEC. 6. *Claims for Benefits.*—(a) *Filing.*—Claims for benefits shall be made in accordance with such regulations as the director may prescribe. Each employer shall post and maintain printed statements of such regulations in places readily accessible to individuals in his service and shall make available to each such individual at the time he becomes unemployed, a printed statement of such regulations. Such printed statements shall be supplied by the director to each employer without cost to him.

Initial determination and hearing on claim.

(b) *Initial Determination and Hearing on Claim.*—A representative designated by the director and hereinafter referred to as a deputy, shall promptly examine the claim, and on the basis of the facts found by him, shall determine whether or not such

claim is valid, and if valid, the week with respect to which benefits shall commence, the weekly benefit amount payable and the maximum duration thereof. The deputy shall promptly notify the claimant, his most recent employer, and any other interested party which the director by regulation prescribes, of his decision. Unless the claimant, such employer, or any such interested party, within five calendar days after the date of notification or mailing of such decision to his last known address, files with the director a request for a hearing upon the claim, such decision shall be final and benefits shall be paid or denied in accordance therewith. When a request for a hearing upon a claim has been filed, as in this section provided, and after the deputy has afforded all parties reasonable opportunity for a fair hearing, he shall promptly affirm or modify the initial determination and shall notify all interested parties of his findings and decision with respect to the claim. Unless any such interested party, within five calendar days after the date of notification or mailing of such decision to his last known address, files with the director an appeal, such decision shall be final, and benefits shall be paid or denied in accordance therewith.

(c) *Appeals.*—Unless such appeal is withdrawn, Appeals. an appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and decision of the deputy. The parties shall be duly notified of such tribunal's decision, together with its reasons therefor, which shall be deemed to be the final decision on the claim, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (e) of this section.

(d) *Appeal Tribunals.*—To hear and decide disputed claims, the governor shall establish one or Appeal tribunals. more impartial appeal tribunals consisting in each

case of either a salaried examiner or a body consisting of three members, one of whom shall be a salaried examiner, who shall serve as chairman, one of whom shall be a representative of employers and the other of whom shall be a representative of employees; each of the latter two members shall serve at the pleasure of the governor and be paid a fee of not more than \$10.00 per day of active service on such tribunal, plus necessary expenses. No person shall hear or decide any disputed claim in any case in which he is an interested party. The director may designate alternates to serve in the absence or disqualification of any member of an appeal tribunal. The chairman shall act alone in the absence or disqualification of any other member and his alternates. In no case shall the hearings proceed unless the chairman of the appeal tribunal is present.

Review.

(e) *Review.*—The director may on his own motion affirm, modify, or set aside any decision of an appeal tribunal on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeal. The director shall permit such further appeal by any of the parties interested in a decision of an appeal tribunal which is not unanimous and by the deputy whose decision has been overruled or modified by an appeal tribunal. The director may transfer to another appeal tribunal the proceedings on any claim pending before an appeal tribunal.

Procedure.

(f) *Procedure.*—The manner in which disputed claims shall be presented, the reports thereon required from the claimant and from employers and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the director for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules

of procedure. A full and complete record shall be kept of all proceedings in connection with a disputed claim. All testimony at any hearing upon a disputed claim shall be recorded, but need not be transcribed unless the disputed claim is further appealed.

(g) *Witness Fees.*—Witnesses subpoenaed pursuant to this section shall be allowed fees at a rate fixed by the director. Such fees and all expenses of proceedings involving disputed claims excepting charges for services rendered by counsel or other agent representing the claimant, employer or other interested party shall be deemed a part of the expenses of administering this act. Witness fees.

(h) *Appeal to Courts.*—Any decision of the director or appeal tribunal in the absence of an appeal therefrom as herein provided shall become final thirty days after the date of notification or mailing thereof, and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies as provided in subsection[s] (c), (d), and (e) of this section. The director shall be deemed to be a party to any judicial action involving any such decision, and shall be represented in any such judicial action by the attorney general. Appeal to courts.

(i) *Court Review.*—Within thirty days after the final decision 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 before the appeal tribunal. 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 no- Court review.
Proceedings.

tice of appeal and by serving a copy thereof by mail or personally on the director, and the filing and service of said notice of appeal within thirty days shall be jurisdictional. The director shall within twenty days after receipt of such notice of appeal serve and file his 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 courts. When a notice of final decision has been placed in the United States mail properly addressed, it shall be considered *prima facie* evidence of communication to the applicant and his attorney, if of record.

Certified
copy of
record served
and filed.

The director shall serve upon the appellant and file with the clerk of the court before trial a certified copy of his complete record of the claim which shall upon being so filed become a part of the record in such case. No fee of any kind shall be charged the director for filing his appearance or for any other services performed by the clerk of either the superior or the supreme court.

Judgment.

If the court shall determine that the director has acted within his power and has correctly construed the law, the decision of the director 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 director with an order directing him 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.

Attorney's
fee.

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 courts in the case, and if the decision of the director shall be reversed or modified, such fee and the fees of witnesses and the

costs shall be payable out of the Unemployment Compensation 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 director shall be *prima facie* correct, and the burden of proof shall be upon the party attacking the same.

Whenever any appeal is taken from any decision of the director to any court, all expenses and costs incurred therein by said director including court reporter costs and attorney's fees and all cost taxed against such director shall be paid out of the Unemployment Compensation Administration Fund. Costs.

CONTRIBUTIONS.

SEC. 7. (a) *Payment.*—

(1) On and after January 1, 1937, contributions shall accrue and become payable by each employer for each calendar year in which he is subject to this act, with respect to wages payable for employment (as defined in section 19 (g)) occurring during such calendar year, such contributions shall become due and be paid by each employer to the treasurer for the fund in accordance with such regulation as the director may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in his employ; Contributions,
payment.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to 1 cent.

(b) *Rate of Contribution.*—Each employer shall pay contributions equal to the following percentages of wages payable by him with respect to employment: Rate of
contribution.

(1) One and eight-tenths (1.8%) per centum with respect to employment during the calendar year 1937;

(2) Two and seven-tenths (2.7%) per centum with respect to employment during the calendar years 1938, 1939, 1940, 1941;

(3) With respect to employment after December 31, 1941, the percentage determined pursuant to subsection (c) of this section.

Future rates based on benefit experience.

(c) *Future Rates Based on Benefit Experience.*—

Employers.

Separate accounts.

(1) The director shall maintain a separate account for each employer, and shall credit his account with all the contributions paid on his own behalf in excess of one per centum of his annual pay roll for each calendar year. But nothing in this act shall be construed to grant any employer or individuals in his service prior claims or rights to the amounts paid by him into the fund either on his own behalf or on behalf of such individuals. Benefits paid to an eligible individual shall be charged, in the amount hereinafter provided, against the account of his most recent employer, except that if such individual had not earned within the completed calendar quarter and the expired portion of the uncompleted calendar quarter immediately preceding the first week of any continuous period of unemployment, wages for employment by such most recent employer equal to more than sixteen times his weekly benefit amount, such benefits may also be charged against the account of his next most recent employer, in the inverse chronological order in which the employment of such individual occurred. The maximum amount so charged against the account of any employer shall not exceed one-sixth (1/6) of the wages payable to such individual by each such employer for employment which occurs on and after the first day of such individual's base period, or \$65.00 per completed calendar quarter or portion thereof, which-

ever is the lesser; but nothing in this section shall be construed to limit benefits payable pursuant to section 3 of this act. The director shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several employers for whom an individual performed employment at the same time.

(2) The director may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account. Joint
accounts.

(3) The director shall, for the period of twelve months commencing January 1, 1942, and for each calendar year thereafter, classify employers in accordance with their actual contribution and benefit experience and shall determine for each employer the rate of contribution which shall apply to him throughout the calendar year in order to reflect said experience and classification. In making such classification, the director shall take account of the degree of unemployment hazard shown by each employer's experience, and of any other measurable factors which he finds bear a reasonable relation to the purposes of this subsection. He may apply such form of classification or rating system which in his judgment is best calculated to rate individually and most equitably the employment risk for each employer and to encourage the stabilization of employment. The general basis of classification proposed to be used for any calendar year shall be subject to fair notice, opportunity for hearing, and publication. The rates for any calendar year shall be so fixed that they would, if applied to all employers and their annual pay rolls of the preceding calendar year, Classifi-
cation.

have yielded total contributions equaling approximately two and seven-tenths (2.7%) per centum of the total of all such annual pay rolls. The director shall determine the contribution rate applicable to each employer for any calendar year subject to the following limitations:

Rate.

(I) Each employer's rate shall be two and seven-tenths (2.7%) per centum, except as otherwise provided in the following provisions. No employer's rate shall be less than two and seven-tenths (2.7%) per centum unless and until there shall have been three (3) calendar years throughout which any individual in his employ could have received benefits if eligible;

(II) No employer's contribution rate shall be less than nine-tenths of 1 per centum (.09%) [.9%].

Period of
employer's
coverage.

SEC. 8. *Period, Election, and Termination of Employer's Coverage.*—(a) Any employing unit which is or becomes an employer subject to this act within any calendar year shall be subject to this act during the whole of such calendar year.

(b) Except as otherwise provided in subsection (c) of this section, an employing unit shall cease to be an employer subject to this act only as of the 1st day of January of any calendar year, if it files with the director prior to the 5th day of January of such year, a written application for termination of coverage, and he finds that there were no twenty different weeks within the preceding calendar year, within which such employing unit employed one or more individuals in employment subject to this act. For the purpose of this subsection, the two or more employing units mentioned in paragraph (2) or (3) or (4) of section 19 (f) shall be treated as a single employing unit.

(c) (1) An employing unit, not otherwise subject to this act, which files with the director its written election to become an employer subject hereto for

not less than two calendar years, shall, with the written approval of such election by the director, become an employer subject hereto to the same extent as all other employers, as of the date stated in such approval, and shall cease to be subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such 1st day of January, it has filed with the director a written notice to that effect.

(2) Any employing unit for which services that Election.
do not constitute employment as defined in this act are performed, may file with the director a written election that all such services performed by 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 act for not less than two calendar years. Upon the written approval of such election by the director, such services shall be deemed to constitute employment subject to this act from and after the date stated in such approval. Such services shall cease Termination.
to be deemed employment subject hereto as of January 1 of any calendar year subsequent to such two calendar years, only if at least thirty days prior to such 1st day of January such employing unit has filed with the director a written notice to that effect.

SEC. 9. *Unemployment Compensation Fund.*—

(a) *Establishment and Control.*—There is hereby established as a special fund, separate and apart from all public monies or funds of this state, an unemployment compensation fund, which shall be administered by the director exclusively for the purposes of this act, and to which section 5501 of Remington's Revised Statutes shall not be applicable. Unemployment compensation fund, establishment and control.

This fund shall consist of (1) all contributions collected under this act, together with any interest thereon collected pursuant to section 14 of this act; (2) all fines and penalties collected pursuant to the

provisions of this act; (3) interest earned upon any monies in the fund; (4) any property or securities acquired through the use of monies belonging to the fund; and (5) all earnings of such property or securities. All money in the fund shall be mingled and undivided.

Treasurer
and custo-
dian of fund.

(b) *Accounts and Deposit.*—The director shall designate a treasurer and custodian of the fund who shall administer such fund in accordance with the directions of the director and shall issue his warrants upon it in accordance with such regulations as the director shall prescribe. He shall maintain within the fund three separate accounts: (1) A clearing account, (2) an unemployment trust fund account, and (3) a benefit account. All moneys payable to the fund, upon receipt thereof by the director, shall be forwarded to the treasurer who shall immediately deposit them in the clearing account. Refunds payable pursuant to section 14 of this act may be paid from the clearing account upon warrants issued by the treasurer under the direction of the director. After clearance thereof, all other monies in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the Social Security Act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of monies in the possession or custody of this state to the contrary notwithstanding. The benefit account shall consist of all monies requisitioned from this state's account in the unemployment trust fund. Monies in the clearing and benefit accounts may be deposited by the treasurer, under the direction of the director, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge

Clearing
account.

Unemploy-
ment trust
fund
account.

Benefit
account.

or premium shall be paid out of the fund. The treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount fixed by the State Administrative Board and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund. Bond.

(c) *Withdrawals.*— Monies shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and in accordance with regulations prescribed by the director. The director shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as he deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such monies in the benefit account and shall issue his warrants for the payment of benefits solely from such benefit account. Expenditures of such monies in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and section 5501 of Remington's Revised Statutes shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the director or his duly authorized agent for that purpose. Any balance of monies requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the director, shall be redeposited. Withdrawals.

Warrants.

with the Secretary of the Treasury of the United States of America, to the credit of this state's account in the unemployment trust fund, as provided in subsection (b) of this section.

Discontinu-
ance of un-
employment
trust fund.

(d) *Management of Funds Upon Discontinuance of Unemployment Trust Fund.*—The provisions of subsections (a), (b), and (c) to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein for this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all monies, properties, or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such monies, properties, or securities in a manner approved by the director, in accordance with the provisions of this act: *Provided*, That such monies shall be invested in the following readily marketable classes of securities: Bonds or other interest bearing obligations of the United States of America: *And provided further*, That such investment shall at all times be made so that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the director.

Investment
of moneys.

UNEMPLOYMENT COMPENSATION DIVISION.

SEC. 10. *Organization.*—There is hereby created in the Department of Social Security two coordinate divisions to be known as (a) the Unemployment Compensation Division, which shall be administered by a full time salaried supervisor, and (b) the Washington State Employment Service Division; each of which shall be under a supervisor who shall be an assistant to the director of the department and shall be appointed by him. Each division shall be responsible to the director for the dispatch of its distinctive functions. Each division shall be a separate administrative unit with respect to personnel, budget and duties, except insofar as the director may find that such separation is impracticable. The director is authorized to appoint, fix the compensation of, and prescribe the duties of the staff of the Washington State Unemployment Compensation Division: *Provided*, That such appointments shall be made on a nonpartisan merit basis, and to appoint, fix the compensation of and prescribe the duties of the staff of the Washington State Employment Service Division in accordance with the provisions of section 12 of this act.

Unemployment compensation division, organization.

ADMINISTRATION.

SEC. 11. (a) *Duties and Powers of Director.*—It shall be the duty of the director to administer this act; and he shall have power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication in the manner, not inconsistent with the provisions of this act, which the director shall prescribe. The director shall determine the organization and methods of procedure of the

Administration, duties and powers of director.

Rules and regulations

Annual
report to
governor.

division in accordance with the provisions of this act, and shall have an official seal which shall be judicially noticed. Not later than the 1st day of February of each year, he shall submit to the governor a report covering the administration and operation of this act during the preceding calendar year and shall make such recommendations for amendments to this act as he deems proper. Such report shall include a balance sheet of the monies in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the director in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the director believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he shall promptly so inform the governor and the legislature, and make recommendations with respect thereto.

Reciprocal
state ar-
rangements.

(b) *Reciprocal State Arrangements.*—The director is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal government whereby potential rights to benefits accumulated under the unemployment compensation laws of several states or under such a law of the Federal government, or both, may constitute the basis for the payment of benefits through a single appropriate agency under terms which he finds will be fair and reasonable as to all affected interests and will not result in any substantial loss to the fund. The director is also authorized to enter into reciprocal agreements with the appropriate agencies of other states or the Federal government adjusting the collection and payment of contributions by employers with respect to employment within and without this state.

(c) *Regulations and General and Special Rules.*—Regulations and general and special rules. General and special rules may be adopted, amended, or rescinded by the director only after public hearing or opportunity to be heard thereon, of which proper notice has been given. General rules shall become effective ten days after filing with the secretary of state and publication in one or more newspapers of general circulation in this state. Special rules shall become effective ten days after notification to or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the director and shall become effective in the manner and at the time prescribed by him.

(d) *Publication.*—Publica-tion. The director shall cause to be printed for distribution to the public the text of this act, the regulations and general rules, his annual reports to the governor, and any other material which he deems relevant and suitable and shall furnish the same to any person upon application therefor.

(e) *Personnel.*—Personnel. Subject to other provisions of this act, the director is authorized to appoint, fix the compensation, and prescribe the duties and powers of such officers, accountants, experts, and other persons as may be necessary to carry out this act. The director may delegate to any such person so appointed such power and authority as he deems reasonable and proper for the effective administration of this act, and may in his discretion bond any person handling monies or signing checks hereunder.

The director shall classify positions and shall establish salary schedules and minimum personnel standards for the position so classified. Salary schedules. The director shall not appoint or employ any person who is an officer or committee member of any political party organization or who holds or is a candidate for any elective public office.

Employ-
ment stabili-
zation.

(f) *Employment Stabilization.*—The director shall take all appropriate steps 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 carry on and publish the results of investigations and research studies.

Records and
reports.

(g) *Records and Reports.*—Each employing unit shall keep true and accurate work records, containing such information as the director may prescribe. Such records shall be open to inspection and be subject to being copied by the director or his authorized representatives at any reasonable time and as often as may be necessary. The director may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which he deems necessary for the effective administration of this act. Information thus obtained or obtained from any individual pursuant to the administration of this act shall not be published or be open to public inspection (other than to public employees in the performance of their public duties) in any manner revealing an individual's or employing unit's identity, but any claimant at a hearing before an appeal tribunal or the director shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee or member of the State Department of Social Security who violates any provision of this section shall be fined not less than \$20.00 nor more than \$200.00, or imprisoned for not longer than ninety days, or both.

(h) *Oaths and Witnesses.*—In the discharge of the duties imposed by this act, the chairman of an appeal tribunal and any duly authorized representative or member of the State Department of Social Security shall have power to administer oaths and affirmations, take depositions, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of this act. Oaths and witnesses.

(i) *Subpoenas.*—In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of the state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by any duly authorized representative or member of the State Department of Social Security or the chairman of an appeal tribunal, shall have jurisdiction to issue to such person an order requiring such person to appear before such chairman, or representative or member of the State Department of Social Security, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof. Any person who shall without just cause fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if it is in his power so to do, in obedience to a subpoena of the director shall be punished by a fine of not less than \$200.00 or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense. Subpoenas.

Protection
against self
incrimina-
tion.

(j) *Protection Against Self Incrimination.*—No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before any duly authorized representative or member of the State Department of Social Security or any appeal tribunal in obedience to the subpoena of such representative or member of the State Department of Social Security or the chairman of such appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

State-federal
cooperation.

(k) *State-Federal Cooperation.*—In the administration of this act, the director shall cooperate to the fullest extent consistent with the provisions of this act, with the Social Security Board, created by Social Security Act, approved August 14, 1935, as amended; shall make such reports, in such form and containing such information as the Social Security Board may from time to time require, and shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports; and shall comply with the regulations prescribed by the Social Security Board governing the expenditures of such sums as may be allotted and paid to this state under title III of the Social Security Act for the purpose of assisting in the administration of this act.

Upon request therefor the director shall furnish to any agency of the United States charged with the administration of public works or assistance through public employment, the name, address, ordinary occupation, and employment status of each recipient of benefits and such recipient's rights to further benefits under this act.

EMPLOYMENT SERVICE.

SEC. 12. (a) The Washington State Employment Service Division is hereby set up in State Department of Social Security as a division thereof, which shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this act and for the purpose of performing such duties as are within the purview of the Act of Congress entitled "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," approved June 6, 1933, (48 Stat. 113; U. S. C., title 29, sec. 49 (c)), as amended. The director shall be charged with the duty to cooperate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this state, in conformity with section 4 of said act, and this state will observe and comply with the requirements thereof. The State Department of Social Security through the Washington State Employment Service Division is hereby designated and constituted the agency of this state for the purpose of said act. The director of the State Department of

Washington
state employ-
ment service
division,
organization.

Social Security shall appoint the officers and employees of the Washington State Employment Service Division. Such appointments shall be made in accordance with regulations prescribed by the director of the United States Employment Service.

Financing.

(b) *Financing*.—All monies received by this state under the said Act of Congress, as amended, shall be paid into the special “employment service account” in the state treasury, and said monies are hereby made available to the Washington State Employment Service Division to be expended as provided by this section and by said Act of Congress. For the purpose of establishing and maintaining free public employment offices, the director is authorized to enter into agreements with any political subdivision of this state or with any private, non-profit organization, and as a part of any such agreement the director may accept monies, services, or quarters as a contribution to the employment service account.

UNEMPLOYMENT COMPENSATION ADMINISTRATION
FUND.

Revolving
fund.

SEC. 13. (a) *Revolving Fund*.—There is hereby created a revolving fund to be known as the Unemployment Compensation Administration Fund. All monies which are deposited or paid into this fund are hereby made available to the director. All monies in this fund shall be expended solely for the purpose of defraying the cost of the administration of this act, and for no other purpose whatsoever. The fund shall consist of all monies received from the United States of America, of [or] any agency thereof, including the Social Security Board or for [from] any other source, for such purpose. All monies in this fund shall be deposited, administered, and disbursed by the treasurer of the unemployment compensation fund under rules and regulations of

the director and none of the provisions of section 5501 of Remington's Revised Statutes shall be applicable to this revolving fund. The treasurer last named shall be the treasurer of the Unemployment Compensation Administration Fund and shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with that fund in an amount to be fixed by the State Administrative Board and in a form prescribed by law or approved by the attorney general. The premiums for such bond and the premiums for the bond given by the treasurer of the unemployment compensation fund under section 9 of this act, shall be paid from the monies in the Unemployment Compensation Administration Fund.

(b) *Employment Service Account.*—A special “employment service account” shall be maintained in the state treasury for the purpose of maintaining the public employment offices established pursuant to section 12 of this act and for the purpose of cooperating with the United States Employment Service. There is hereby appropriated to the employment service account from any money in the state treasury not otherwise appropriated the sum of \$400,000.00. In addition there shall be paid into such account the monies designated in section 12 (b) of this act, and such monies as are appropriated for the purposes of this account from any monies received by this state under title III of the Social Security Act, as amended.

Employment
service
account.

COLLECTION OF CONTRIBUTIONS.

SEC. 14. (a) *Interest on Past Due Contributions.*—Contributions unpaid on the date on which they are due and payable, as prescribed by the director, shall bear interest at the rate of 1 per centum (1%) per month from and after such date until payment plus accrued interest is received by him. In-

Interest on
past due
contribu-
tions.

terest collected pursuant to this subsection shall be paid into the unemployment compensation fund.

Collection of contributions.

(b) *Collection.*—If, after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due shall be collected by civil action in the name of the director, and the employer adjudged in default shall pay the costs of such action. Civil actions brought under this section to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this act and cases arising under the industrial insurance law of this state.

Priorities under legal dissolutions or distributions.

(c) *Priorities Under Legal Dissolutions or Distributions.*—In the event of any distribution of an employer's assets pursuant to an order of any court under the laws of this state, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition, or similar proceeding contributions then or thereafter due shall be paid in full prior to all other claims except taxes and claims for remuneration for services of not more than \$250.00 to each claimant, earned within six months of the commencement of the proceeding. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the Federal Bankruptcy Act of 1898, as amended, contributions then or thereafter due shall be entitled to such priority as is provided in section 64 (b) of that act (U. S. C., title 11, section 104 (b)), as amended.

Refunds.

(d) *Refunds.*—If not later than four years after the date which any contributions or interest thereon become due, an employer who has paid such contributions or interest thereon shall make application for an adjustment thereof in connection with

subsequent contribution payments, or for a refund thereof because such adjustment cannot be made and the director shall determine that such contributions or interest or any portion thereof was erroneously collected, he shall allow such employer to make an adjustment thereof, without interest, in connection with subsequent contribution payments by him, or if such adjustment cannot be made the director shall refund said amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the director's own initiative.

PROTECTION OF RIGHTS AND BENEFITS.

SEC. 15. (a) *Waiver of Rights Void.*—Any agreement by an individual to waive, release, or commute his rights to benefits or any other rights under this act shall be void. Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this act from such employer, shall be void. No employer shall directly or indirectly make or require or accept any deduction from remuneration for services to finance the employer's contributions required from him, or require or accept any waiver of any right hereunder by any individual in his employ. Any employer or officer or agent of an employer who violates any provision of this subsection shall, for each offense, be fined not less than \$100.00 nor more than \$1,000.00 or be imprisoned for not more than six months, or both.

Waiver of
rights void.

(b) *Limitation of Fees.*—No individual claiming benefits shall be charged fees of any kind in any proceeding under this act by the director or his representatives, by any appeal tribunal or by any court or any officer thereof: *Provided, however,* The individual shall pay such fees as are legal in superior and supreme court. Any individual claiming bene-

Limitation
of fees.

fits in any proceeding before the director, an appeal tribunal or a court may be represented by counsel or other duly authorized agent; but no such counsel or agents shall either charge or receive a fee for such services, but a legally licensed attorney shall be paid such reasonable fee for his services in the superior court as the judge orders. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than \$50 nor more than \$500, or imprisoned for not more than six months, or both.

No assign-
ment of
benefits;
exemptions.

(c) *No Assignment of Benefits; Exemptions.*— Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this act shall be void; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt; and benefits received by any individual, so long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such individual or his spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this subsection shall be void.

PENALTIES.

Penalties.

SEC. 16. (a) Whoever makes a false statement or representation knowing it to be false or knowingly fails to disclose a material fact, to obtain or increase any benefit or other payment under this act, either for himself or for any other person, shall be punished by a fine of not less than \$20 nor more than \$50, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment; and each such false statement or representation or failure to disclose a material fact shall constitute a separate offense.

(b) Any employing unit or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact, to prevent or reduce the payment of benefits to any individual entitled thereto, or to avoid becoming or remaining subject hereto or to avoid or reduce any contribution or other payment required from an employing unit under this act, or who willfully fails or refuses to make any such contributions or other payment or to furnish any reports required hereunder or to produce or permit the inspection or copying of records as required hereunder, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment; and each such false statement or representation or failure or refusal shall constitute a separate offense.

(c) Any person who shall willfully violate any provision of this act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this act, and for which a penalty is neither prescribed herein nor provided by any other applicable statute, shall be punished by a fine of not less than \$20 nor more than \$200, or by imprisonment for not longer than sixty days, or by both such fine and imprisonment, and each day such violation continues shall be deemed to be a separate offense.

(d) Any person who, by reason of the nondisclosure or misrepresentation by him or by another, of a material fact (irrespective of whether such nondisclosure or misrepresentation was known or fraudulent) has received any sum as benefits under this act while any conditions for the receipt of benefits imposed by this act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall, in the discretion of the director either be liable

to have such sum deducted from any future benefits payable to him under this act or shall be liable to repay to the director for the unemployment compensation fund, a sum equal to the amount so received by him, and such sum shall be collected in the manner provided in section 14 (b) of this act for the collection of past due contributions.

REPRESENTATION IN COURT.

Attorney
general
counsel for
departments
and divisions.

SEC. 17. (a) The attorney general shall be the general counsel of each and all divisions and departments under this act and it shall be his duty to institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of each, every, and all of the provisions of this act, and it shall be the duty of the attorney general to assign such assistants and attorneys as may be necessary to the exclusive duty of assisting each, every, and all divisions and departments created under this act in the enforcement of this act. The salaries of such assistants shall be paid out of the unemployment compensation administration fund, together with their expenses fixed by the attorney general and allowed by the treasurer of the unemployment compensation administration fund when approved upon vouchers by the attorney general;

(b) All criminal actions for violation of any provisions of this act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the attorney general of the state; or, at his request and under his direction, by the prosecuting attorney of any county in which the employer has a place of business or the violator resides.

Nonliability
of state.

NONLIABILITY OF STATE.

SEC. 18. Benefits shall be deemed to be due and payable under this act only to the extent provided in this act and to the extent that monies are avail-

able therefor to the credit of the unemployment compensation fund, and neither the state nor the director shall be liable for any amount in excess of such sums.

DEFINITIONS.

SEC. 19. As used in this act, unless the context clearly requires otherwise:

- (a) "Annual payroll" means the total amount of wages payable by an employer (regardless of the time of payment) for employment during a calendar year. "Annual payroll."
- (b) "Benefits" means the money payments payable to an individual, as provided in this act, with respect to his unemployment. "Benefits."
- (c) "Director" means the administrative head of the State Department of Social Security referred to in section 10 of this act. "Director."
- (d) "Contributions" means the money payments to the state unemployment compensation fund required by this act. "Contributions."
- (e) "Employing unit" means any individual or type of organization, including any partnership, association, trust, estate, joint-stock company, insurance company or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ eight or more individuals performing services for it within this state. All individuals performing services within this state for any employing unit which maintains two or more separate establishments within this state shall be deemed to be employed by a single employing unit for all the purposes of this act. "Employing unit."
- (f) "Employer" means: "Employer."
- (1) Any employing unit which in each of twenty different weeks within either the current or

Employer
defined.

the preceding calendar year (whether or not such weeks are or were consecutive) has or had in employment eight or more individuals (not necessarily simultaneously and irrespective of whether the same individuals are or were employed in each such week);

(2) Any employing unit which acquired the organization, trade or business, or substantially all the assets thereof, of another which at the time of such acquisition was an employer subject to this act;

(3) Any employing unit which acquired the organization, trade or business or substantially all the assets thereof, of another employing unit and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(4) Any employing unit which together with one or more other employing units, is owned or controlled (by legally enforceable means or otherwise) directly or indirectly by the same interests, or which owns or controls one or more other employing units (by legally enforceable means or otherwise), and which, if treated as a single unit with such other employing unit, would be an employer under paragraph (1) of this subsection;

(5) Any employing unit which, having become an employer under paragraph (1), (2), (3), or (4), has not, under section 8, ceased to be an employer subject to this act; or

(6) For the effective period of its election pursuant to section 8 (c) any other employing unit which has elected to become fully subject to this act.

"Employment."

(g) (1) "Employment," subject to the other provisions in this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied.

(2) The term "employment" shall include an individual's entire service performed within or both within and without this state if: (i) The service is localized in this state; or (ii) the service is not localized in any state but some of the service is performed in this state and (a) the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled, is in this state; or (b) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

Term "employment."

(3) Services not covered under paragraph (2) of this subsection, and performed entirely without this state, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal government, shall be deemed to be employment subject to this act if the individual performing such services is a resident of this state and the director approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this act.

(4) Service shall be deemed to be localized within a state if:

(i) The service is performed entirely within such state; or

(ii) The service is performed both within and without such state, but the service performed without the state is incidental to the individual's service within such state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Services performed by an individual for remuneration shall be deemed to be employment subject to this act unless and until it is shown to the satisfaction of the director that:

(i) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his contract of service and in fact; and

(ii) Such service is either outside the usual course of the business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(iii) Such individual is customarily engaged in an independently established trade, occupation, profession or business, of the same nature as that involved in the contract of service.

Exception.

(6) The term "employment" shall not include:

(i) Agricultural labor;

(ii) Domestic service in a private home;

(iii) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(iv) Service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of twenty-one in the employ of his father or mother;

(v) Service performed in the employ of a corporation, community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual;

(vi) Service performed in the employ of this state, or of any political subdivisions thereof, or of any instrumentality of this state or its political subdivisions;

(vii) Service performed in the employ of any other state or its political subdivisions, or of the United States Government, or of an instrumentality

of any other state or states or their political subdivisions or the United States;

(viii) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress: *Provided*, That the director is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten (10) days after publication thereof in the manner provided in section 11 (b) of this act for general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this act.

(h) "Employment office" means a free public employment office, or branch thereof, operated by this state or maintained as a part of a state controlled system of public employment offices. "Employment office."

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

(j) "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia. "State."

(k) "Total and Partial Unemployment." (1) "Total and partial unemployment."
An individual shall be deemed "totally unemployed" in any week after January 1, 1939, during which he performs no services other than odd jobs or subsidiary work for compensation not to exceed \$3.00, and with respect to which no remuneration is payable to him.

(2) An individual shall be deemed "partially unemployed" in any week of less than full time work

after January 1, 1939, if his remuneration payable for such week is less than six-fifths ($6/5$) of the weekly benefit amount he would be entitled to receive if totally unemployed and eligible.

"Remuneration."

(3) As used in this subsection, the term "remuneration" shall include only that part of remuneration for odd jobs or subsidiary work, or both, which is in excess of \$3.00 in any one week.

(4) An individual's week of unemployment shall be deemed to commence only after his registration at an employment office, except as the director may by regulation otherwise prescribe.

"Unemployment compensation administration fund."

(1) "Unemployment Compensation Administration Fund" means the unemployment compensation administration fund established by this act, from which administrative expenses under this act shall be paid.

"Wages."

(m) "Wages" means remuneration payable by employers for employment. "Remuneration" means all compensation payable for personal services, including commissions and bonuses and the cash value of all compensation payable in any medium other than cash. The reasonable cash value of compensation payable in any medium other than cash, and the reasonable amount of gratuities, shall be estimated and determined in accordance with rules prescribed by the director.

"Week."

(n) "Week" means any period of seven consecutive calendar days ending at midnight.

"Weekly benefit amount."

(o) "Weekly Benefit Amount." An individual's weekly benefit amount means the amount of benefits he would be entitled to receive for one week of total unemployment.

"Benefit year."

(p) "Benefit Year," with respect to any individual means the fifty-two consecutive week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter, the fifty-two consecutive week period be-

ginning with the first day of the first week with respect to which benefits are next payable to him after the termination of his last preceding benefit year.

(q) "Base Period" means the period beginning with the first day of the non- [nine] completed calendar quarters immediately preceding the first day of an individual's benefit year and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable. "Base period."

(r) "Calendar Quarter" means the period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31, excluding, however, any calendar quarter or portion thereof which occurs prior to January 1, 1938, or the equivalent thereof as the commission may by regulation prescribe. "Calendar quarter."

SAVING CLAUSE.

SEC. 20. 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. All the rights, privileges, or immunities conferred by this act or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this act at any time. Right to amend or repeal reserved by legislature.

SEPARABILITY OF PROVISIONS.

SEC. 21. If any provisions of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby. Partial invalidity.

SEC. 22. If the Congress of the United States, by amendatory legislation, extends the application of its Social Security Act of August 14, 1935, to include employers who are not now embraced under or covered by the said act of Congress, then and in that Amendments to federal act.

event, the provisions of this act shall be deemed amended to conform with the changes as enacted by Congress and approved by the President of the United States with respect to the scope and application of the said act of Congress of August 14, 1935, and, upon any such change being made, the governor, when advised of the approval thereof by the President, shall immediately by official proclamation declare the germane provision or provisions of this act amended in conformity with the change or changes as so made in the Social Security Act and such amendment or amendments shall be operative from the date of the governor's proclamation.

In the event that this section should be declared unconstitutional or invalid by a court of last resort, such adjudication shall not in any wise impair, affect or invalidate any other section, part or provision of this act, and the remainder of the act shall be given the same effect as if this section had never been enacted.

Federal tax
inoperative,
effect.

SEC. 23. If the tax imposed by Title IX of the Federal Social Security Act or any amendments thereto, or any other Federal tax against which contributions under this act may be credited shall, for any cause become inoperative, with the result that no portion of the contributions required under this act may be credited against such Federal tax, then this act by virtue of that fact, shall be suspended until the legislature shall meet and take action relative thereto, and any unobligated funds in the unemployment compensation fund, and returned by the United States Treasurer because such Federal Social Security Act is inoperative, shall be held in custody by the state treasurer and under supervision of the commission until the legislature shall provide for the disposition thereof.

EFFECTIVE DATE.

SEC. 24. This act is necessary for the immediate preservation of the public peace, health and safety, and shall take effect immediately. Effective immediately.

Passed the Senate March 1, 1937.

Passed the House March 8, 1937.

Approved by the Governor March 16, 1937.

 CHAPTER 163.

[S. B. 192.]

EASEMENT FOR PIPE LINE IN CLARK COUNTY.

AN ACT authorizing and directing the granting of easement and/or right of way for constructing and maintaining pipe line over and across certain real estate in Clark county.

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

SECTION 1. The governor of the State of Washington is hereby authorized and directed, in the name of the State of Washington, to execute and deliver to the People's Water and Gas Company, successors to the Oregon-Washington Water Service Company, easement granting to the said corporation the right to construct and maintain pipe line for conveying water over and across the following property, situated in the City of Vancouver, Clark county, Washington, more particularly described as follows: Easement.

Beginning at a point 225 feet, more or less, south of the south line of East 15th Street in the City of Vancouver and 259 feet 5 inches east of the west line of that grantors property which abuts on said East 15th Street, said point being on the line of the pipeline easement granted to Oregon-Washington Water Service Company, now People's Water & Gas Company by two deeds, one from C. A. Wellman and Louise C. Wellman and the other from S. D. Martine