

CHAPTER 286.

[ S. B. 39. ]

UNEMPLOYMENT COMPENSATION.

AN ACT relating to unemployment compensation; amending section 7, chapter 214, Laws of 1949, and RCW 50.12.010; section 5, chapter 8, Laws of 1953, First Extraordinary Session, and RCW 50.16.010; section 90, chapter 35, Laws of 1945, and RCW 50.24.020; section 21, chapter 215, Laws of 1947, and RCW 50.24.190 and 50.24.200; section 2, chapter 235, Laws of 1949, as amended by section 16, chapter 215, Laws of 1951, and section 18, chapter 8, Laws of 1953, First Extraordinary Session, and RCW 50.28.010, 50.28.020 and 50.28.030; section 20, chapter 8, Laws of 1953, First Extraordinary Session, and RCW 50.28.040; section 4, chapter 235, Laws of 1949, as amended by section 21, chapter 8, Laws of 1953, First Extraordinary Session, and RCW 50.28.050 and 50.28.060; repealing and reenacting section 70, chapter 35, Laws of 1945, and RCW 50.20.030; and repealing section 71, chapter 35, Laws of 1945, and RCW 50.20.040; and providing an effective date.

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

Amendment.

SECTION 1. Section 7, chapter 214, Laws of 1949, and RCW 50.12.010 are each amended to read as follows:

Commissioner to administer title.

The commissioner shall administer this title. He shall have the 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.

Rules effective upon publication.

Such rules and regulations shall be effective upon publication and in the manner, not inconsistent with the provisions of this title, which the commissioner shall prescribe. The commissioner, in accordance with the provisions of this title, shall determine the organization and methods of procedure of the divisions referred to in this title, and shall have an official seal which shall be judicially noticed. Not

Official seal.

later than the 31st day of December of each year, he shall submit to the governor a report covering the

Report.

administration and operation of this title during the preceding fiscal year, July 1 through June 30, and shall make such recommendations for amendments to this title as he deems proper: *Provided*, That the report submitted in 1955 shall cover the eighteen months beginning January 1, 1954. Such report shall include a balance sheet of the moneys 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 commissioner 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 commissioner 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 legislature and make recommendations with respect thereto.

1955 Report.  
Report to contain balance sheet of moneys in fund.

SEC. 2. Section 5, chapter 8, Laws of 1953, First Extraordinary Session, and RCW 50.16.010 are each amended to read as follows: Amendment.

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state, an unemployment compensation fund and an administrative contingency fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01-.050 shall not be applicable. The unemployment compensation fund shall consist of

Two separate funds administered.

Unemployment compensation fund shall consist of.

- (1) all contributions collected pursuant to the provisions of this title,
- (2) interest earned upon any moneys in the fund,
- (3) any property or securities acquired through the use of moneys belonging to the fund,
- (4) all earnings of such property or securities,
- (5) any moneys received from the federal unemployment account in the unemployment trust fund

in accordance with Title XII of the social security act, as amended, and

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

Commingling.

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

Administrative contingency fund shall consist of.

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title after June 20, 1953, and all fines and penalties collected pursuant to the provisions of this title. The amount in this fund in excess of one hundred thousand dollars on the close of business of the last day of each calendar quarter shall be immediately transferred to this state's account in the unemployment trust fund. Moneys available in the administrative contingency fund shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him that such expenditure is necessary for:

Transfer of moneys.

Moneys expended; procedure.

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

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

Repeal and re-enactment.

SEC. 3. Section 70, chapter 35, Laws of 1945, and RCW 50.20.030 are each repealed and reenacted to read as follows:

Presumption.

A pregnant woman shall be presumed to be unable to work and unavailable for work if she left her most recent work voluntarily because of pregnancy: *Provided, however,* That in any event a

pregnant woman shall be ineligible to receive benefits for any calendar week during the period beginning with the tenth calendar week before expected confinement, as determined by a doctor, and extending through the fourth calendar week following childbirth.

Period pregnant woman is ineligible to receive benefits.

SEC. 4. Section 71, chapter 35, Laws of 1945, and RCW 50.20.040 are each repealed.

Repeal.

SEC. 5. Section 90, chapter 35, Laws of 1945, and RCW 50.24.020 are each amended to read as follows:

Amendment.

The commissioner may compromise any claim for contributions, interest, or penalties, and any amount owed by an individual because of benefit overpayments, whether reduced to judgment or otherwise, existing or arising under this title in any case where collection of the full claim, in the case of contributions, interest, or penalties, would result in the insolvency of the employing unit or individual from whom such contributions, interest, or penalties are claimed, and any case where collection of the full amount of benefit overpayments made to an individual, whether reduced to judgment or otherwise, would be against equity and good conscience.

Commissioner's authority to compromise claims.

Whenever a compromise is made by the commissioner in the case of a claim for contributions, there shall be placed on file in the office of the unemployment compensation division a statement of the amount of contributions, interest and penalties imposed by law and claimed due, a complete record of the compromise agreement and the amount actually paid in accordance with the terms of the compromise agreement. Whenever a compromise is made by the commissioner in the case of a claim of a benefit overpayment, whether reduced to judgment or otherwise, there shall be placed on file in the office of the unemployment compensation division a statement of the amount of the benefit overpayment, attorneys' fees and costs, if any, a complete record of the com-

Record of compromise filed.

Statement of amount of benefit overpayment.

promise agreement and the amount actually paid in accordance with the terms of the compromise agreement.

Compromise final and conclusive.

If any such compromise is accepted by the commissioner, within such time as may be stated in the compromise or agreed to, such compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the matters agreed upon. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded.

Division and amendment.

SEC. 6. Section 21, chapter 215, Laws of 1947, (heretofore divided and codified as RCW 50.24.190 and 50.24.200) is divided and amended as set forth in sections 7 and 8 of this act.

Time limitation on commencement of suit or assessment.

SEC. 7. (RCW 50.24.190) The commissioner shall commence action for the collection of contributions, interest, and benefit overpayments imposed by this title by assessment or suit within three years after a return is filed or notice of benefit overpayment is served. No proceedings for the collection of such amounts shall be begun after the expiration of such period.

No time limitation on commencement.

In case of a false or fraudulent return with intent to evade contributions or interest, or in the event of a failure to file a return, the contributions and interest may be assessed or a proceeding in court for the collection thereof may be begun at any time.

Authority of commissioner to charge off as uncollectible.

SEC. 8. (RCW 50.24.200) The commissioner may charge off as uncollectible and no longer an asset of the unemployment compensation fund or the administrative contingency fund, as the case may be, any delinquent contributions, interests, credits, or benefit overpayments at any time after three years

from the date of delinquency or service of notice of benefit overpayment, if the commissioner and the attorney general are satisfied that there are no available and lawful means by which such contributions, interest, credits, or benefit overpayments may thereafter be collected.

SEC. 9. Section 2, chapter 235, Laws of 1949, as amended by section 16, chapter 215, Laws of 1951, and section 18, chapter 8, Laws of 1953, First Extraordinary Session, (heretofore divided and codified as RCW 50.28.010, 50.28.020 and 50.28.030) is divided and amended as set forth in sections 10, 11, and 12 of this act.

SEC. 10. (RCW 50.28.010) As used in this chapter:

“Computation date” means January 1st of any year;

“Cut-off date” means March 31st next following the computation date;

“Effective date” means June 30th next following the computation date;

“Credit year” means the four consecutive calendar quarters immediately following the effective date;

“Payroll” means all wages paid by an employer to individuals in his employment;

“Acquire” means the right to occupy or use the operating assets formerly in the possession of a predecessor employer whether that acquisition be by purchase, lease, gift, or by any legal process;

Experience rating credits applied in payment of contributions shall be deemed to be “contributions.”

SEC. 11. (RCW 50.28.020) “Qualified employer” means: (1) Any employer as of the effective date who had some employment in the twelve-month period immediately preceding April 1 of the first of the three consecutive calendar years immediately pre-

ceding the computation date, who had some employment in each of these three calendar years, and who had filed contribution reports thereon on or before the cut-off date: *Provided*, That such employer shall not be deemed a qualified employer if he has reported no employment for four or more consecutive calendar quarters in such three calendar years; or

(2) Any employer as of the effective date who has not been subject to the act for a period of time sufficient to be classified as a qualified employer under the provisions of section (1) of this subdivision but who has had some employment in the twelve-month period immediately preceding April 1 of the first of the two consecutive calendar years immediately preceding the computation date, who had some employment in each of these two calendar years, and who had filed contribution reports thereon on or before the cut-off date: *Provided*, That such employer shall not be deemed a qualified employer if he has reported no employment for four or more consecutive calendar quarters in such two calendar years: *And provided further*,

(a) When an employer or prospective employer has acquired all or substantially all the operating assets of an employer, the payroll experience of both shall be jointly considered for the purpose of determining and establishing the acquiring party's qualification for and amount of credit, and the transferring employer shall be divested of his experience; or

(b) When an employer or prospective employer has acquired an operating department, section, division or any substantial portion of the business or assets of any employer, which is clearly segregable and identifiable, the entire payroll experience of the transferring employer shall be divided between the transferring and acquiring employers in proportion to the payroll for the four preceding completed cal-

endar quarters attributable to the operating assets conveyed and retained.

SEC. 12. (RCW 50.28.030) "Surplus" means the lesser of (1) that amount by which the moneys in the unemployment compensation fund as of the effective date, after subtracting the amount of credits previously established under this title and outstanding as valid on such date, exceed four times the amount of contributions paid on the payrolls reported by all employers on or before the cut-off date for the preceding calendar year, or (2) an amount equal to forty percent of the contributions so paid for the preceding calendar year. No portion of the surplus shall be credited to any employer unless the amount of the surplus is at least ten percent of the amount of the contributions paid on the payrolls reported by all employers on or before the cut-off date for the preceding calendar year.

Enacted without amendment.

"Surplus" defined.

SEC. 13. Section 20, chapter 8, Laws of 1953, First Extraordinary Session, and RCW 50.28.040 are each amended to read as follows:

Amendment.

The amount of credit for each qualified employer shall be established in the following manner:

Credit for each qualified employer established as follows.

(1) Qualified employers shall be grouped into six credit classes, to be designated as classes 6, 5, 4, 3, 2, and 1, in accordance with the sum of the quotients of annual decreases of payroll in regard to the three consecutive calendar years immediately preceding the computation date, each such quotient to be obtained by dividing any decrease of the payroll of a qualified employer in any calendar year from the preceding calendar year by the amount of the payroll in such preceding calendar year, each division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded. Each qualified employer's credit class shall be determined from the sum of such employer's quotients of annual decrease of payroll in accordance with the following

Credit classes.

Credit class determined.



Proviso.

schedule: *Provided, however,* That the credit class of an employer who qualifies under the provisions of section (2) of RCW 50.28.020 shall be that credit class on the line on which his annual decrease quotient is equal to one-half the sum of annual decrease quotients in said schedule, such quotient to be obtained by dividing any decrease of the payroll of the employer in the calendar year immediately preceding the computation date from the preceding calendar year by the amount of the payroll in such preceding year, each division being carried to the fourth decimal place and the remaining fraction, if any, disregarded:

Credit class schedule.	Sum of annual decrease quotients	Credit class
	0.0000 to 0.0999 .....	6
	0.1000 to 0.2999 .....	5
	0.3000 to 0.4999 .....	4
	0.5000 to 0.6999 .....	3
	0.7000 to 0.7999 .....	2
	0.8000 or more .....	1

"Class weight"  
assigned each  
credit class;  
schedule.

(2) A "class weight" shall be assigned to each credit class as follows:

Credit class	Class weight
6 .....	6
5 .....	5
4 .....	4
3 .....	3
2 .....	2
1 .....	0

"Class  
product"  
obtained.

(3) The "class product" shall be obtained by dividing the total of the payrolls for the calendar year immediately preceding the computation date for all qualified employers in the same class by the total of the payrolls of all qualified employers for such year, such division being carried out to the fourth decimal place, and multiplying the quotient by the class weight.

(4) The surplus to be credited to each class

shall be the product obtained by dividing the class product for each class by the sum of the class products for all classes and multiplying the quotient by the surplus to be credited to all employers. No portion of the surplus shall be credited to credit class 1.

Surplus credited to each class; formula.

(5) The "class credit factor" shall be the quotient obtained by dividing the portion of the surplus assigned to any class of qualified employer by the sum of the payrolls of all employers in that class for the calendar year immediately preceding the computation date, such division being carried out to the fourth decimal place and the remaining fraction, if any, disregarded.

"Class credit factor;" formula.

(6) The portion of the surplus which is to be credited to any qualified employer is the product obtained by multiplying his payroll in the calendar year immediately preceding the computation date by the class credit factor of his class.

Portion of surplus to be credited to qualified employer.

(7) As soon as practicable after the effective date, each qualified employer shall be furnished a notice showing the amount of credit to which he is entitled, if any. The amount shown on the notice may be applied only against contributions which are payable by him on wages paid in the credit year and reported not later than the date prescribed by the commissioner for payment of contributions on wages paid in the last quarter of such credit year: *Provided, however,*

Employer's notice of credit.

Application of amount shown on credit notice.

(a) When an employer or prospective employer has acquired all or substantially all the operating assets of a qualified employer, any unused portion of the experience rating credit of the transferring employing unit shall be transferred to the acquiring employer who may apply such acquired credit only upon contributions which accrue and become due from such employer by reason of employment occurring subsequent to the date of acquisition and prior to the end of the current credit year, or

Transfer of credit rating to new employer.

Transfer of credit rating to new employer who has acquired a segregable and identifiable division of the business.

(b) When an employer or prospective employer has acquired an operating department, section, division or any substantial portion of the business or assets of any employer, which is clearly segregable and identifiable, any unused portion of the experience rating credit of the transferring employing unit shall be divided between the transferring and acquiring employers in proportion to the payroll for the four preceding completed calendar quarters attributable to the operating assets conveyed and retained and the acquiring employers may apply such acquired credit only upon contributions which accrue and become due from such employers by reason of employment occurring subsequent to the date of acquisition and prior to the end of the current credit year: *Provided further,*

Limitation.

(c) That the transferring employing unit has submitted all reports and has paid all contributions and interest due to the date of such acquisition.

Division and amendment.

SEC. 14. Section 4, chapter 235, Laws of 1949, as amended by section 21, chapter 8, Laws of 1953, First Extraordinary Session, (heretofore divided and codified as RCW 50.28.050 and 50.28.060) is divided and amended as set forth in sections 15 and 16 of this act.

Reconsideration by commissioner of credit allowed employer; time limitation.

SEC. 15. (RCW 50.28.050) Within three years from the effective date the commissioner may reconsider the credit allowed any employer whenever he finds that there has been an error in the computation evident from the payroll data or other facts submitted by the employer prior to the cut-off date. When an increase is due, he shall issue to such employer a supplementary credit notice reflecting the increase in the employer's credit; however, when a credit notice has been issued to an employer whose credit is reduced, such notice shall be deemed canceled and a revised notice issued. If the credit shown by the incorrect notice has already been applied in payment of contributions in

Supplementary credit notice.

Revised notice.

excess of the correct credit, the employer shall thereupon become liable for payment into the fund in an amount equal to the excess of the credit taken by him over the credit to which he is entitled and such amount shall be deemed and collected as contributions payable under this title.

Corrections or modifications of an employer's payroll shall not be taken into account for the purpose of an increase of his credit unless such corrections or modifications were established on or before the cut-off date.

Corrections or modifications of employer's payroll considered.

Corrections or modifications of an employer's payroll may be taken into account for the purpose of a reduction in his credit within three years after the effective date.

Increases or reductions of an employer's credit shall not affect the credits established or to be established for any other employer, and shall further not affect any other computation made under this title.

Increases or reductions of an employer's credit no effect.

SEC. 16. (RCW 50.28.060) Any employer dissatisfied with the amount of credit shown on his credit notice or revision thereof may file a request for adjustment with the commissioner within thirty days of the mailing of such credit notice to the employer, showing wherein the amount of credit may be in error. Should such request for adjustment be denied the employer may within ten days of the mailing of such notice of denial of adjustment file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for a denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of adjustment.

Enacted without amendment.

Request for adjustment; procedure.

SEC. 17. The provisions of section 5 of this act shall not become effective until the 3rd day of July, 1955.

Effective date.

Passed the Senate March 9, 1955.

Passed the House March 8, 1955.

Approved by the Governor March 18, 1955.