

CHAPTER 266.

[H. B. 219.]

UNEMPLOYMENT COMPENSATION.

AN ACT relating to unemployment compensation; amending section 44, chapter 35, Laws of 1945, as amended by section 8, chapter 214, Laws of 1949 and RCW 50.12.050; amending section 57, chapter 35, Laws of 1945 and RCW 50.12.180; reenacting section 68, chapter 35, Laws of 1945, section 9, chapter 214, Laws of 1949, section 9, chapter 265, Laws of 1951, section 7, chapter 8, Laws of 1953 first extraordinary session and RCW 50.20.010; amending section 84, chapter 35, Laws of 1945, as last amended by section 13, chapter 8, Laws of 1953 first extraordinary session and RCW 50.20.160; amending section 100, chapter 35, Laws of 1945, as amended by section 17, chapter 8, Laws of 1953 first extraordinary session and RCW 50.24.120; reenacting section 104, chapter 35, Laws of 1945, section 8, chapter 265, Laws of 1951 and RCW 50.24.160; amending section 119, chapter 35, Laws of 1945, as amended by section 23, chapter 214, Laws of 1949 and RCW 50.32.030; adding a new section to chapter 35, Laws of 1945, and chapter 50.04 RCW; and repealing sections 9 and 11, chapter 215, Laws of 1951 (uncodified).

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

RCW 50.12.050 amended.

SECTION 1. Section 44, chapter 35, Laws of 1945, as amended by section 8, chapter 214, Laws of 1949 and RCW 50.12.050 are each amended to read as follows:

Administration. Reciprocal benefit arrangements.

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

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

The commissioner may enter into agreement with any other state whereby in the event an individual files a claim in another state against wages earned in employment in this state, or against wage credits earned in this state and in any other state or who files a claim in this state against wage credits earned in employment in any other state, or against wages earned in this state and in any other state, the claim will be paid by this state or another state as designated by the agreement in accordance with a determination on the claim as provided by the agreement and pursuant to the qualification and disqualification provisions of this title or under the provisions of the law of the designated paying state (including another state) or under such a combination of the provisions of both laws as shall be determined by the commissioner as being fair and reasonable to all affected interests, and whereby the wages of such individual, if earned in two or more states (including another state) may be combined, and further, whereby this state or another state shall reimburse the paying state in an amount which shall bear the same ratio to the amount of benefits already paid as the amount of wage credits transferred by this state or another state, and used in the determination, bear to the total wage credits used in computing the claimant's maximum amount of benefits potentially payable.

Reciprocal
benefit
arrangements.

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

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

RCW 50.12.180
amended.

SEC. 2. Section 57, chapter 35, Laws of 1945 and RCW 50.12.180 are each amended to read as follows:

State-federal
cooperation.

The commissioner, through the Washington state employment service division, shall establish and maintain free public employment offices in such places as may be necessary for the proper administration of this title 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 other purposes," approved June 6, 1933 (48 Stat. 113; U.S.C. Title 29, Sec. 49 (c), as amended).

In the administration of this title the commissioner shall cooperate to the fullest extent consistent with the provisions of this title, 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 there shall be observance of and compliance with the requirements thereof. The commissioner may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities, and make available to said board the state's records relating to the administration of this title, and

furnish such copies thereof, at the expense of the board, as it may deem necessary for its purposes.

State-federal
cooperation.

The commissioner shall comply with such provisions as the social security board, created by the social security act, approved August 14, 1935, as amended, may from time to time require, regarding reports and the correctness and verification thereof, and shall comply with the regulations of 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 the administration of this title. The commissioner may afford reasonable cooperation with every agency of the United States charged with the administration of any unemployment insurance law.

The governor is authorized to apply for an advance to the state unemployment fund and to accept the responsibility for the repayment of such advance in accordance with the conditions specified in Title XII of the social security act, as amended, in order to secure to this state and its citizens the advantages available under the provisions of such title.

The commissioner is also authorized and empowered to take such steps, not inconsistent with law, as may be necessary for the purpose of procuring for the people of this state all of the benefits and assistance, financial and otherwise, provided, or to be provided for, by or pursuant to any act of congress relating to the employment security program.

Upon request therefor the commissioner 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 title.

RCW 50.20.010
reenacted.

SEC. 3. Section 11, chapter 215, Laws of 1951 (uncodified) is repealed; and section 68, chapter 35, Laws of 1945, section 9, chapter 214, Laws of 1949, section 9, chapter 265, Laws of 1951, section 7, chapter 8, Laws of 1953 first extraordinary session and RCW 50.20.010 are reenacted to read as follows:

Benefits and
claims. Bene-
fit eligibility
conditions.

An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week only if the commissioner finds that

(1) he has registered for work at, and thereafter has continued to report at, an employment office in accordance with such regulation as the commissioner may prescribe, except that the commissioner may by regulation waive or alter either or both of the requirements of this subdivision as to individuals attached to regular jobs and as to such other types of cases or situations with respect to which he finds that the compliance with such requirements would be oppressive, or would be inconsistent with the purposes of this title;

(2) he has filed an application for an initial determination and made a claim for waiting period credit or for benefits in accordance with the provisions of this title;

(3) he is able to work, and is available for work in any trade, occupation, profession, or business for which he is reasonably fitted. To be available for work an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or his agents;

(4) he has been unemployed for a waiting period of one week; and

(5) he has within the base year been paid wages of not less than the minimum amount now or hereafter fixed by law as the minimum amount to be earned in order to allow the individual to receive unemployment benefits.

SEC. 4. Section 84, chapter 35, Laws of 1945, as last amended by section 13, chapter 8, Laws of 1953 first extraordinary session and RCW 50.20.160 are each amended to read as follows:

RCW 50.20.160
amended.

(1) A determination of amount of benefits potentially payable issued pursuant to the provisions of RCW 50.20.120 and RCW 50.20.140 shall not serve as a basis for appeal but shall be subject to request by the claimant for reconsideration and/or for redetermination by the commissioner at any time within one year from the date of delivery or mailing of such determination, or any redetermination thereof: *Provided*, That in the absence of fraud or misrepresentation on the part of the claimant, any benefits paid prior to the date of any redetermination which reduces the amount of benefits payable shall not be subject to recovery under the provisions of RCW 50.20.190. A denial of a request to reconsider or a redetermination shall be furnished the claimant in writing and provide the basis for appeal under the provisions of RCW 50.32.020.

Redetermina-
tion.

(2) A determination of denial of benefits issued under the provisions of RCW 50.20.180 shall become final, in absence of timely appeal therefrom: *Provided*, That the commissioner may reconsider and redetermine such determinations at any time within one year from delivery or mailing to correct an error in identity, omission of fact, or misapplication of law with respect to the facts.

(3) A determination of allowance of benefits shall become final, in absence of a timely appeal therefrom: *Provided*, That the commissioner may redetermine such allowance at any time within two

years following the benefit year in which such allowance was made in order to recover any benefits improperly paid and for which recovery is provided under the provisions of RCW 50.20.190: *And provided further*, That in the absence of fraud, misrepresentation, or nondisclosure, this provision or the provisions of RCW 50.20.190 shall not be construed so as to permit redetermination or recovery of an allowance of benefits which having been made after consideration of the provisions of RCW 50.20.010 (3), or the provisions of RCW 50.20.050, RCW 50.20.060, RCW 50.20.080, or RCW 50.20.090 has become final.

(4) A redetermination may be made at any time to conform to a final court decision applicable to either an initial determination or a determination of denial or allowance of benefits. Written notice of any such determination shall be promptly given by mail or delivered to such interested parties as were notified of the initial determination or determination of denial or allowance of benefits and any new interested party or parties who, pursuant to such regulation as the commissioner may prescribe, would be an interested party.

RCW 50.24.120
amended.

SEC. 5. Section 100, chapter 35, Laws of 1945, as amended by section 17, chapter 8, Laws of 1953 first extraordinary session and RCW 50.24.120 are each amended to read as follows:

Contributions
by employers.
Collection by
civil action.

(1) If after due notice, any employer defaults in any payment of contributions or interest thereon, the amount due may be collected by civil action in the name of the state, and the employer adjudged in default shall pay the cost of such action. Any lien created by this title may be foreclosed by decree of the court in any such action. Civil actions brought under this title to collect contributions or interest thereon from an employer shall be heard by the court at the earliest possible date and shall be en-

titled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this title and cases arising under the industrial insurance laws of this state.

(2) Any employing unit which is not a resident of this state and which exercises the privilege of having one or more individuals perform service for it within this state, and any resident employing unit which exercises that privilege and thereafter removes from this state, shall be deemed thereby to appoint the secretary of state as its agent and attorney for the acceptance of process in any action under this title. In instituting such an action against any such employing unit the commissioner shall cause such process or notice to be filed with the secretary of state and such service shall be sufficient service upon such employing unit, and shall be of the same force and validity as if served upon it personally within this state: *Provided*, That the commissioner shall forthwith send notice of the service of such process or notice, together with a copy thereof, by registered mail, return receipt requested, to such employing unit at its last known address and such return receipt, the commissioner's affidavit of compliance with the provisions of this section, and a copy of the notice of service shall be appended to the original of the process filed in the court in which such action is pending.

(3) The courts of this state shall in the manner provided in subsections (1) and (2) of this section entertain actions to collect contributions or interest thereon for which liability has accrued under the employment security law of any other state or of the federal government.

SEC. 6. Section 9, chapter 215, Laws of 1951 (uncodified) is repealed; and section 104, chapter 35, Laws of 1945, section 8, chapter 265, Laws of 1951 and RCW 50.24.160 are reenacted to read as follows:

Repeal.

RCW 50.24.160
reenacted.

Election of coverage.

Any employing unit for which services that do not constitute employment as defined in this title are performed, or this state or any political subdivisions thereof or any instrumentality of this state or its political subdivisions, may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for not less than two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title from and after the date stated in such approval. Such services shall cease to be deemed employment subject hereto as of January 1st of any calendar year subsequent to such two calendar years, only if the employing unit files with the commissioner prior to the fifteenth day of January of such year a written application for termination of coverage.

RCW 50.32.030 amended.

SEC. 7. Section 119, chapter 35, Laws of 1945, as amended by section 23, chapter 214, Laws of 1949 and RCW 50.32.030 are each amended to read as follows:

Review, hearings, appeals. Appeal from order and notice of assessment.

When an order and notice of assessment has been served upon or mailed to a delinquent employer, as heretofore provided, such employer may within ten days thereafter file a petition in writing with the appeal tribunal, stating that such assessment is unjust or incorrect and requesting a hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the employment security department. If no such petition be filed with the appeal tribunal within said ten days, said assessment shall be conclusively deemed to be just and correct: *Provided*, That in

such cases, and in cases where payment of contributions or interest has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of a petition on a disputed assessment with the appeal tribunal shall stay the distraint and sale proceeding provided for in this title until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the commissioner to perfect a lien, as provided by this title, upon the property of the employer. The filing of a petition on a disputed assessment shall stay the accrual of interest on the disputed contributions until a final decision shall have been made thereon.

Within ten days after notice of denial of refund or adjustment has been mailed or delivered (whichever is the earlier) to an employer, the employer may file a petition in writing with the appeal tribunal for a hearing thereon: *Provided*, That this right shall not apply in those cases in which assessments have been appealed from and have become final. The petitioner shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said ten days, the determination of the commissioner as stated in said notice shall be final.

SEC. 8. There is added to chapter 35, Laws of 1945 and to chapter 50.04 RCW a new section to read as follows:

New section.

Wherever and whenever in any of the sections of chapter 35, Laws of 1945, and of Title 50.04 RCW, the words "contribution" and/or "contributions" appear, said words shall be construed to mean taxes which are the money payments required by this title to be made to the state unemployment compensation fund.

"Contribution," "Contributions" defined.

Construction,
section 8.

SEC. 9. The provisions of section 8 of this amendatory act shall be construed as a restatement and continuation of existing law, and not as a new enactment. It shall not be construed as affecting any existing right acquired under its provisions nor as affecting any proceeding instituted thereunder.

Passed the House March 11, 1959.

Passed the Senate March 9, 1959.

Approved by the Governor March 23, 1959.

CHAPTER 267.

[H. B. 362.]

GARNISHMENT—SERVICE OF WRIT.

AN ACT relating to service and return of writs of garnishment, and amending section 1, chapter 44, Laws of 1933 extraordinary session and RCW 7.32.120.

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

RCW 7.32.120
amended.

SECTION 1. Section 1, chapter 44, Laws of 1933 extraordinary session and RCW 7.32.120 are each amended to read as follows:

Service of
writ generally
—Return.

The writ of garnishment may be served by the sheriff or any constable of the county in which the garnishee lives or it may be served by any citizen of the state of Washington over the age of twenty-one years and not a party to the action in which it is issued in the same manner as a summons in an action is served: *Provided, however,* That where the writ is directed to a bank or savings and loan association maintaining branch offices, as garnishee, the writ must be directed to and service thereof must be made by leaving a copy of the writ with the manager or any other officer of such bank or association at the office or branch thereof at which the account evidencing such indebtedness of the defendant is