

are each repealed:

- (1) Section 1, chapter 215, Laws of 1949 and RCW 26.08.010;
- (2) Section 2, chapter 215, Laws of 1949, section 1, chapter 15, Laws of 1965 ex. sess. and RCW 26.08.020;
- (3) Section 3, chapter 215, Laws of 1949, section 1, chapter 28, Laws of 1970 ex. sess. and RCW 26.08.030;
- (4) Section 4, chapter 215, Laws of 1949 and RCW 26.08.040;
- (5) Section 5, chapter 215, Laws of 1949 and RCW 26.08.050;
- (6) Section 6, chapter 215, Laws of 1949 and RCW 26.08.060;
- (7) Section 7, chapter 215, Laws of 1949 and RCW 26.08.070;
- (8) Section 8, chapter 215, Laws of 1949, section 1, chapter 21, Laws of 1972 ex. sess. and RCW 26.08.080;
- (9) Section 9, chapter 215, Laws of 1949, section 70, chapter 81, Laws of 1971 and RCW 26.08.090;
- (10) Section 10, chapter 215, Laws of 1949 and RCW 26.08.100;
- (11) Section 11, chapter 215, Laws of 1949 and RCW 26.08.110;
- (12) Section 12, chapter 215, Laws of 1949 and RCW 26.08.120;
- (13) Section 13, chapter 215, Laws of 1949 and RCW 26.08.130;
- (14) Section 14, chapter 215, Laws of 1949 and RCW 26.08.140;
- (15) Section 15, chapter 215, Laws of 1949 and RCW 26.08.150;
- (16) Section 16, chapter 215, Laws of 1949 and RCW 26.08.160;
- (17) Section 17, chapter 215, Laws of 1949 and RCW 26.08.170;
- (18) Section 18, chapter 215, Laws of 1949 and RCW 26.08.180;
- (19) Section 19, chapter 215, Laws of 1949 and RCW 26.08.190;
- (20) Section 20, chapter 215, Laws of 1949 and RCW 26.08.200;
- (21) Section 21, chapter 215, Laws of 1949 and RCW 26.08.210;
- (22) Section 11, chapter 26, Laws of 1967 and RCW 26.08.215;
- (23) Section 22, chapter 215, Laws of 1949 and RCW 26.08.220;

and

- (24) Section 1, chapter 135, Laws of 1949 and RCW 26.08.230.
- NEW SECTION. Sec. 31. Sections 1 through 29 of this 1973 act shall constitute a new chapter in Title 26 RCW.

Passed the House April 12, 1973.

Passed the Senate April 9, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.

CHAPTER 158

[House Bill No. 420]

UNEMPLOYMENT COMPENSATION

AN ACT Relating to unemployment compensation; amending section 39, chapter 35, Laws of 1945 as amended by section 9, chapter 215,

Laws of 1947 and RCW 50.08.020; amending section 41, chapter 35, Laws of 1945 and RCW 50.12.020; amending section 43, chapter 35, Laws of 1945 and RCW 50.12.040; amending section 57, chapter 35, Laws of 1945 as amended by section 2, chapter 266, Laws of 1959 and RCW 50.12.180; amending section 75, chapter 35, Laws of 1945 as last amended by section 10, chapter 8, Laws of 1953 ex. sess. and RCW 50.20.070; amending section 78, chapter 35, Laws of 1945 and RCW 50.20.100; amending section 87, chapter 35, Laws of 1945 as last amended by section 14, chapter 8, Laws of 1953 ex. sess. and RCW 50.20.190; amending section 92, chapter 35, Laws of 1945 as amended by section 16, chapter 8, Laws of 1953 ex. sess. and RCW 50.24.040; amending section 93, chapter 35, Laws of 1945 as amended by section 19, chapter 215, Laws of 1947 and RCW 50.24.050; amending section 101, chapter 35, Laws of 1945 as amended by section 21, chapter 214, Laws of 1949 and RCW 50.24.130; amending section 10, chapter 2, Laws of 1970 ex. sess. as amended by section 16, chapter 3, Laws of 1971 and RCW 50.29.010; amending section 13, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.040; amending section 15, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.060; amending section 16, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.070; amending section 125, chapter 35, Laws of 1945 and RCW 50.32.090; amending section 128, chapter 35, Laws of 1945 as amended by section 119, chapter 81, Laws of 1971 and RCW 50.32.120; amending section 129, chapter 35, Laws of 1945 as amended by section 120, chapter 81, Laws of 1971 and RCW 50.32.130; amending section 130, chapter 35, Laws of 1945 and RCW 50.32.140; adding a new section to chapter 35, Laws of 1945 and to chapter 50.24 RCW; repealing section 47.64.050, chapter 13, Laws of 1961 and RCW 47.64.050; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section 39, chapter 35, Laws of 1945 as amended by section 9, chapter 215, Laws of 1947 and RCW 50.08.020 are each amended to read as follows:

There are hereby established in the employment security department two coordinate divisions to be known as the unemployment compensation division, and the Washington state employment service division, each of which shall be administered by a full time salaried supervisor who shall be an assistant to the commissioner and shall be appointed by him. Each division shall be responsible to the commissioner 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 commissioner may

find that such separation is impracticable. ((The commissioner is authorized to appoint and fix the compensation of such officers, accountants, experts and other personnel as may be necessary to carry out the provisions of this title: PROVIDED, That such appointment shall be made on a nonpartisan merit basis in accordance with the provisions of this title relating to the selection of personnel;))

It is hereby further provided that the governor in his discretion may delegate any or all of the organization, administration and functions of the said Washington state employment service division to any federal agency.

Sec. 2. Section 41, chapter 35, Laws of 1945 and RCW 50.12.020 are each amended to read as follows:

The commissioner is authorized to appoint(~~to fix the compensation of, and prescribe the duties of the staff of each of said divisions~~) and fix the compensation of such officers, accountants, experts, and other personnel as may be necessary to carry out the provisions of this title: PROVIDED, That such appointment shall be made on a nonpartisan merit basis in accordance with the provisions of this title relating to the selection of personnel. The commissioner may delegate to any person appointed such power and authority as he deems reasonable and proper for the effective administration of this title, including the right to decide matters placed in his discretion under this title, and may in his discretion bond any person handling moneys or signing checks hereunder.

The commissioner 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 partisan elective public office.

Sec. 3. Section 43, chapter 35, Laws of 1945 and RCW 50.12.040 are each amended to read as follows:

~~((General and special rules may be adopted, amended, or rescinded by the commissioner 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 the 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 commissioner and shall become effective in the manner and at the time prescribed by him;))~~ Regular and emergency rules and regulations shall be adopted, amended, or repealed by the commissioner in accordance with the provisions of Title 34 RCW and the rules or regulations adopted pursuant thereto.

Sec. 4. Section 57, chapter 35, Laws of 1945 as amended by

section 2, chapter 266, Laws of 1959 and RCW 50.12.180 are each amended to read as follows:

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.

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.

Sec. 5. Section 75, chapter 35, Laws of 1945 as last amended by section 10, chapter 8, Laws of 1953 ex. sess. and RCW 50.20.070 are each amended to read as follows:

Irrespective of any other provisions of this title an individual shall be disqualified for benefits for any week with respect to which he has knowingly made a false statement or representation involving a material fact or knowingly failed to report a material fact and has thereby obtained or attempted to obtain any benefits under the provisions of this title, and for an additional twenty-six weeks commencing with the first week for which he completes ((a)) an otherwise compensable claim for waiting period credit or benefits following the date of the delivery or mailing of the determination of disqualification under this section: PROVIDED, That such disqualification shall not be applied after two years have elapsed from the date of the delivery or mailing of the determination of disqualification under this section, but all overpayments established by such determination of disqualification shall be collected as otherwise provided by this title.

Sec. 6. Section 78, chapter 35, Laws of 1945 and RCW 50.20.100 are each amended to read as follows:

In determining whether ((or not any such)) work is suitable for an individual or whether ((or not)) an individual has left work voluntarily without good cause, the commissioner 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, the distance of the available work from his residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

Sec. 7. Section 87, chapter 35, Laws of 1945 as last amended by section 14, chapter 8, Laws of 1953 ex. sess. and RCW 50.20.190 are each amended to read as follows:

((Any person who is paid any amount as benefits under this title to which he is not entitled shall become liable for such amount: PROVIDED, That in the absence of fraud, misrepresentation or

wilful nondisclosure, such person shall not be liable for an amount of overpayment received without fault on his part where the recovery thereof would be against equity and good conscience. The amount of the overpayment and the basis thereof shall be assessed to the liable person and following the overpayment assessment such amount, if not collected, shall be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of fraud, misrepresentation, or wilful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of the benefit year in which the purported overpayment was made.) An individual who is paid any amount as benefits under this title to which he is not entitled shall, unless otherwise relieved pursuant to this section, be liable for repayment of the amount overpaid. The department shall issue an overpayment assessment setting forth the reasons for and the amount of the overpayment. The amount assessed, to the extent not collected, shall be deducted from any future benefits payable to the individual.

The commissioner may waive an overpayment if he finds that said overpayment was not the result of fraud, misrepresentation, wilful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience; PROVIDED, HOWEVER, That the overpayment so waived shall be charged against the individual's applicable entitlement for the eligibility period containing the weeks to which the overpayment was attributed as though such benefits had been properly paid.

Any assessment herein provided shall constitute a determination of liability from which an appeal may be had in the same manner and to the same extent as provided for appeals relating to determinations in respect to claims for benefits: PROVIDED, That an appeal from any determination covering overpayment only, shall be deemed to be an appeal from the determination which was the basis for establishing the overpayment unless the merits involved in the issue set forth in such determination have already been heard and passed upon by the appeal tribunal. If no such appeal is taken to the appeal tribunal by the individual within ten days of the delivery of the notice of determination of liability, or within ten days of the mailing of the notice of determination, whichever is the earlier, said determination of liability shall be deemed conclusive and final, and the court shall, upon application of the commissioner, enter a judgment in the amount provided by the notice of determination, which judgment shall have and be given the same effect as if entered pursuant to civil action.

On request of any agency which administers an employment security law of another state, the United States or a foreign government and which has found in accordance with the provisions of

such law that a claimant is liable to repay benefits received under such law by reason of having knowingly made a false statement or misrepresentation of a material fact with respect to a claim taken in this state as an agent for such agency, the commissioner may collect the amount of such benefits from such claimant to be refunded to such agency. In any case in which under this section a claimant is liable to repay any amount to the agency of another state, the United States or a foreign government, such amounts may be collected without interest by civil action in the name of the commissioner acting as agent for such agency if the other state, the United States or the foreign government extends such collection rights to the employment security department of the state of Washington, and provided that the court costs be paid by the governmental agency benefiting from such collection.

Sec. 8. Section 92, chapter 35, Laws of 1945 as amended by section 16, chapter 8, Laws of 1953 ex. sess. and RCW 50.24.040 are each amended to read as follows:

If contributions are not paid on the date on which they are due and payable as prescribed by the commissioner, the whole or part thereof remaining unpaid shall bear interest at the rate of one percent per month or fraction thereof from and after such date until payment plus accrued interest is received by him. ((In computing interest from any period less than a full month, the rate shall be one-thirtieth of one percent for each day or fraction thereof.)) Interest shall not accrue in excess of twenty-four percent for delinquent contributions for any one contributions period. The date as of which payment of contributions, if mailed, is deemed to have been received may be determined by such regulations as the commissioner may prescribe. Interest collected pursuant to this section shall be paid into the administrative contingency fund. Interest shall not accrue on contributions from any estate in the hands of a receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer subsequent to the date when such receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer qualifies as such, but contributions accruing with respect to employment of persons by any receiver, executor, administrator, trustee in bankruptcy, common law assignee or other liquidating officer shall become due and shall draw interest in the same manner as contributions due from other employers. Where adequate information has been furnished the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, interest may be waived.

Sec. 9. Section 93, chapter 35, Laws of 1945 as amended by section 19, chapter 215, Laws of 1947 and RCW 50.24.050 are each

amended to read as follows:

The claim of the unemployment compensation division for any contributions, including interest thereon, not paid when due, shall be a lien prior to all other liens or claims and on a parity with prior tax liens against all property ((of)) and rights to property, whether real or personal, belonging to the employer. In order to avail itself of the lien hereby created, the unemployment compensation division shall file with ((the county auditor of the county in which such property is located a statement in writing describing in general terms the specific property upon which the lien is claimed and stating the amount of the lien claimed by the division; The lien shall only attach to the property and be effective from the date of filing of such statement)) any county auditor a statement and claim of lien specifying the amount of delinquent contributions and interest claimed by the division. From the time of filing for record, the amount required to be paid shall constitute a lien upon all property and rights to property, whether real or personal, in the county, owned by the employer or acquired by him. The lien shall not be valid against any purchaser, holder of a security interest, mechanic's lien, or judgment lien creditor until notice thereof has been filed with the county auditor. This lien shall be separate and apart from, and in addition to, any other lien or claim created by, or provided for in, this title. When any such notice of lien has been so filed, the commissioner may release the same by filing a certificate of release when it shall appear that the amount of delinquent contributions together with all interest thereon have been paid, or when such assurance of payment shall be made as the commissioner may deem to be adequate. Any lien filed as provided in this section may also be filed in the office of the secretary of state. Filing in the office of the secretary of state shall be of no effect, however, until the lien or copy thereof shall have been filed with the county auditor in the county where the property is located. When a lien is filed in compliance herewith and with the secretary of state, such filing shall have the same effect as if the lien had been duly filed for record in the office of the auditor in each county of this state. Fees for filing and releasing the lien provided herein may be charged to the employer and may be collected from the employer utilizing the remedies provided in this title for the collection of contributions.

Sec. 10. Section 101, chapter 35, Laws of 1945 as amended by section 21, chapter 214, Laws of 1949 and RCW 50.24.130 are each amended to read as follows:

No employing unit which contracts with or has under it any contractor or subcontractor who is an employer under the provisions of this title shall make any payment or advance to, or secure any

credit for, such contractor or subcontractor ((for any indebtedness due until after the) or on account of any contract or contracts to which said employing unit is a party unless such contractor or subcontractor has paid contributions, ((or has furnished a good and sufficient bond acceptable to the commissioner for payment of contributions, including interest;)) due or to become due ((in respect to)) for wages paid or to be paid by such contractor or subcontractor for personal services ((which have been)) performed ((by individuals for such contractor or subcontractor)) pursuant to such contract or subcontract, or has furnished a good and sufficient bond acceptable to the commissioner for payment of contributions, including interest. Failure to comply with the provisions of this section shall render said employing unit directly liable for such contributions and interest and the commissioner shall have all of the remedies of collection against said employing unit under the provisions of this title as though the services in question were performed directly for said employing unit.

Sec. 11. Section 10, chapter 2, Laws of 1970 ex. sess. as amended by section 16, chapter 3, Laws of 1971 and RCW 50.29.010 are each amended to read as follows:

As used in this chapter:

"Computation date" means July 1st of any year;

"Cut-off date" means ((August 31st)) September 30th next following the computation date;

"Rate year" means the calendar year immediately following the computation date;

"Experience rating year" is the twelve-month period beginning with July 1st of one calendar year and ending on June 30th of the following calendar year;

"Payroll" means all wages (as defined for contribution purposes) 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;

"Qualified employer" means: (1) Any employer as of the computation date who had some employment in the twelve-month period immediately preceding April 1st of the first of the three consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such three years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions required under this title from him or his predecessors for the thirty-six month period immediately preceding the computation date have been paid ((prior to)) by the cut-off date or within twenty days

of mailing of special delinquency notice as provided in RCW 50.29.070; or (2) Any employer as of the computation date who has not been subject to this title for a period of time sufficient to be classified as a qualified employer under the provision of subdivision (1) of this paragraph but who had some employment in the twelve-month period immediately preceding April 1st of the first of the two consecutive calendar years immediately preceding the computation date and who had no period of four or more consecutive calendar quarters in such two years for which he reported no employment, except that no employer shall be deemed a qualified employer unless all contributions required under this title from him or his predecessors for the twenty-four month period immediately preceding the computation date have been paid ((prior to)) by the cut-off date or within twenty days of mailing of special delinquency notice as provided in RCW 50.29.070; PROVIDED, That for the purpose of this section, unpaid contributions of twenty-five dollars or less or unpaid contributions of one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding the computation date may be disregarded if showing is made to the satisfaction of the commissioner that an otherwise qualified employer acted in good faith and that forfeiture of qualification for a reduced contribution rate because of such delinquency would be inequitable: PROVIDED, FURTHER, That when an employer or prospective employer has acquired all or substantially all of the operating assets of an employer, or 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 for experience rating purposes, the payroll record and benefit charges of the transferring employer shall be divided between the transferring and acquiring employers in proportion to the payrolls for the four preceding completed calendar quarters attributable to the operating assets retained and conveyed. The successor employer shall be liable for contributions on the acquired business from the date the transfer of the business occurred. The separate account of a predecessor or that part thereof which is transferred shall become the separate account or part of separate account as the case may be of the successor employer.

"Surplus" is an amount of moneys in the unemployment compensation fund deemed in excess of the amount needed to insure the solvency of the fund. The "surplus" is determined in the following manner:

(1) For computations prior to January 1, 1974, the total remuneration paid during the calendar year preceding the computation date shall be multiplied by four percent and the product shall be subtracted from the amount in the fund as of the June 30th

immediately preceding the computation date. If that balance is at least one-tenth of one percent of the total remuneration paid during the calendar year, that portion of the balance not exceeding forty one-hundredths of one percent of the total remuneration paid during the preceding calendar year shall be deemed "surplus". Total remuneration paid in this computation is limited to remuneration paid during the calendar year preceding the computation date and reported to the department of employment security on or before the March 31st immediately preceding the computation date.

(2) For computations subsequent to January 1, 1974, the allowable "surplus" shall be computed by use of the following table. Column A represents the ratio of the unemployment compensation fund as of the June 30th preceding the computation date to total remuneration for the preceding calendar year. The percentage figures in Column B represent the maximum percentage of total remuneration during the preceding calendar year which may be deemed as "surplus" in view of the corresponding figures in Column A. No amount of the fund shall be declared surplus if the balance in the fund as of the June 30th immediately preceding the computation date is not at least one-tenth of one percent of total remuneration paid during the preceding calendar year in excess of four percent of total remuneration paid during the preceding calendar year. The percentage amount of total remuneration during the preceding calendar year, Column B, may be deemed surplus only to the extent that the balance remaining in the unemployment compensation fund exceeds four percent of the total remuneration paid during the preceding calendar year. Total remuneration paid in this computation is limited to remuneration paid during the calendar year preceding the computation date and reported to the department of employment security on or before the March 31st immediately preceding the computation date.

<u>Column A</u>	<u>Column B</u>
4.1% but less than 4.8%	0.40%
4.8% but less than 5.2%	0.55%
5.2% or more	0.70%

(3) In all computations of "surplus" moneys paid from the fund, based on services performed for employers who make payments in lieu of contributions, which have not been reimbursed to the fund as of any June 30 shall be deemed an asset of the unemployment compensation fund, to the extent that such moneys exceed the amount of payments in lieu of contributions which the commissioner has previously determined to be uncollectible: PROVIDED, FURTHER, That the amount attributable to employment with the state shall also include interest as provided for in RCW 50.44.020.

Sec. 12. Section 13, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.040 are each amended to read as follows:

For the rate year 1971 and each rate year thereafter an annual decrease quotient factor and a benefit charge-back factor shall be computed for each qualified employer, each to be determined as provided in subsections (1) and (2) hereof respectively:

(1) To determine a qualified employer's average annual decrease quotient his payroll for the three experience rating years immediately preceding the computation date shall be listed in chronological order. The first annual decrease quotient shall be obtained by dividing any decrease in his payroll between the first and second of his experience rating years by the payroll for the first of such years, the division being carried to the fourth decimal place, with the remaining fraction, if any, disregarded. The second annual decrease quotient shall be obtained by dividing any decrease in his payroll between the second and third of the listed experience rating years by the payroll for the second listed year, the division being carried to the fourth decimal place, with the remaining fraction, if any, disregarded. The employer's average annual decrease quotient shall be obtained by adding his first and second decrease quotients, if any, and dividing by two. The employer's average annual decrease quotient shall determine the point value to be assigned to such employer as his annual decrease quotient factor in accordance with the following schedule.

The annual decrease quotient of a qualified employer who has payrolls for fewer than three experience rating years shall be obtained by dividing any decrease of the employer's payroll in the experience rating year immediately preceding the computation date from the payroll in the preceding experience rating year by the amount of the payroll in such preceding experience rating year, such division being carried to the fourth decimal place, with the remaining fraction, if any, disregarded. This annual decrease quotient shall be deemed to be his average annual decrease quotient and shall determine the point value to be assigned to such employer as his annual decrease quotient factor in accordance with the following schedule:

<u>Annual Decrease Quotient</u>	<u>Point Value</u>
0.0000-0.0124	10
0.0125-0.0249	9
0.0250-0.0374	8
0.0375-0.0499	7
0.0500-0.0749	6
0.0750-0.0999	5
0.1000-0.1499	4
0.1500-0.1999	3
0.2000-0.2499	2
0.2500 or more	1

(2) The charge-back ratio for a qualified employer shall be the quotient obtained by dividing the total benefits charged to his account during the thirty-six consecutive month period immediately preceding the computation date by his payroll for the same thirty-six month period as reported ((not later than August 31 immediately following the computation)) by the cut-off date, except that the charge-back ratio of any qualified employer whose account has been chargeable for a period of fewer than thirty-six months immediately prior to the computation date shall be the quotient obtained by dividing total benefits charged to his account, prior to the computation date, by his payroll set forth as follows: The payroll shall be that reported by ((August 31 immediately following the computation)) the cut-off date, for the period beginning with the first day of the second calendar quarter following the calendar quarter in which he became liable, and through the end of the calendar quarter immediately preceding the computation date. The charge-back ratios shall be extended to four decimal places, with the remaining fraction, if any, disregarded. The charge-back ratios so obtained shall determine the point value to be assigned each employer as his charge-back factor in accordance with the following schedule:

<u>Charge-back Ratios</u>	<u>Point Value</u>
Less than 0.0010	10
0.0010-0.0039	9
0.0040-0.0079	8
0.0080-0.0119	7
0.0120-0.0159	6
0.0160-0.0199	5
0.0200-0.0219	4
0.0220-0.0239	3
0.0240-0.0269	2
0.0270 and over	1

Sec. 13. Section 15, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.060 are each amended to read as follows:

Effective January 1, 1971, predecessor and successor employer contribution rates shall be computed in the following manner:

(1) If the successor is an employer at the time of the transfer, his contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(2) The contribution rate on any payroll retained by a predecessor employer shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(3) If the successor is not an employer at the time of the transfer, he shall pay contributions for the remainder of the rate year in which the transfer occurs at the rate assigned to the predecessor employer.

(4) If the successor is not an employer at the time of the transfer and simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, his rate from the date the transfer occurred until the end of the rate year in which such transfer occurred shall be ((the same as the highest rate assigned to one of the predecessors)) a recomputed rate based on the combined experience of his predecessors as of the cut-off date for that rate year.

(5) In all cases, from and after January 1, following the transfer, the successor's contribution rate for each rate year shall be based on his experience with payrolls and benefits combined with the experience of his predecessor or predecessors, as of the regular computation date for that rate year.

(6) In all cases, from and after January 1 following the transfer, the predecessor's contribution rate for each rate year shall be based on his experience with payrolls and benefits, as of the regular computation date for that rate year, excluding therefrom such experience as was credited to the successor or successors under other provisions of this title: PROVIDED, That if all of the predecessor's experience with payrolls and benefits is transferred to a successor or successors the predecessor shall not be a qualified employer within the meaning of RCW 50.29.010 until his account following the date of the transfer has been chargeable with benefits throughout not less than thirty-six consecutive months immediately preceding the computation date.

Sec. 14. Section 16, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.070 are each amended to read as follows:

Within a reasonable time after the computation date, each employer shall be notified of the total amount of benefits charged to his account during the twelve-month period immediately preceding the computation date and, upon request, the amount of such charges with respect to each individual receiving unemployment benefits charged to his account.

Within a reasonable time after the computation date each employer shall be notified of his rate of contribution as determined for the succeeding rate year.

At the time of mailing rate notices any employer who, prior to the cut-off date has acquired all or substantially all of the operating assets, or has acquired an operating department, section, division, or any substantial portion of the business or assets, of any employer who was not a qualified employer as defined in RCW 50.29.010 because of having failed to pay all contributions required under this title by the cut-off date, shall be furnished a special delinquency statement showing the amount unpaid and the rate of contribution to which such successor employer will be entitled if the

amount is paid within twenty days.

Any employer dissatisfied with the benefit charges made to his account or with his determined rate may file a request for review and redetermination with the commissioner within thirty days of the mailing of the notice to the employer, showing the reason for such request. Should such request for review and redetermination be denied, the employer may, within ten days of the mailing of such notice of denial, file with the appeal tribunal a petition for hearing which shall be heard in the same manner as a petition for denial of refund. The appellate procedure prescribed by this title for further appeal shall apply to all denials of review and redetermination under this section.

Sec. 15. Section 125, chapter 35, Laws of 1945 and RCW 50.32.090 are each amended to read as follows:

Any decision of the commissioner involving a review of an appeal tribunal decision, in the absence of ((an appeal)) a petition therefrom as provided ((by this title)) in RCW 34.04.130, shall become final thirty days after ((the date of mailing written notification thereof and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies provided in this title for hearing by an appeal tribunal and for review of the appeal tribunal's decision by the commissioner)) service. The commissioner 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.

Sec. 16. Section 128, chapter 35, Laws of 1945 as amended by section 119, chapter 81, Laws of 1971 and RCW 50.32.120 are each amended to read as follows:

((Within thirty days after any commissioner's decision, involving review of an appeal tribunal's decision, has been communicated to any interested party, such interested party 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 the hearing 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 serving a notice of appeal on the commissioner personally, by personal service, or by mailing a copy thereof to the commissioner, and by filing the notice of appeal together with proof of service thereof with the clerk of the court and by complying with the requirements of this title relating to undertakings on appeal. The service and the filing together with proof of service of the notice of appeal and compliance with the provisions of this title relating to undertakings on appeal

all within thirty days; shall be jurisdictional. The commissioner 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. The commissioner shall serve upon the appellant and file with the clerk of the court before hearing; a certified copy of his complete record of the administrative proceedings which shall, upon being so filed, become the record in such case. Appeal shall lie from the judgment of the superior court to the supreme court or the court of appeals as in other civil cases.)

Judicial review of a decision of the commissioner involving the review of an appeals tribunal decision may be had only in accordance with the procedural requirements of RCW 34.04.130.

Sec. 17. Section 129, chapter 35, Laws of 1945 as amended by section 120, chapter 81, Laws of 1971 and RCW 50.32.130 are each amended to read as follows:

No bond of any kind shall be required of any individual ((appealing to the superior court or the supreme court or the court of appeals)) seeking judicial review from a commissioner's decision affecting such individual's application for initial determination or claim for waiting period credit or for benefits.

No ((appeal from a)) commissioner's decision ((by any other interested party shall be deemed to be perfected nor shall the court have jurisdiction thereof unless within the thirty day appeal period provided by this title for service and filing of notice of appeal the appellant shall first have deposited with the commissioner the sum theretofore determined by the commissioner to be due from such appellant; if any, together with interest thereon; if any, and in addition thereto shall have filed with the commissioner an undertaking in such amount and with such sureties as the superior court shall approve to the effect that appellant will pay all costs which may be adjudged against him in the prosecution of such appeal. At the option of the appellant such undertaking may be in a sum sufficient to guarantee payment of the amount previously determined by the commissioner to be due from the appellant; if any, together with interest; if any, in addition to an amount approved by the court as sufficient to pay all costs which may be adjudged against appellant in prosecution of such appeal; in which event the appellant shall not be required to deposit any sum with the commissioner as a condition precedent to the taking of an appeal to the superior court. In the event of an appeal to the supreme court or the court of appeals; a deposit or undertaking shall be required of the appellant guaranteeing payment of all sums for which appellant may be adjudged liable; including costs. Such deposit or undertaking shall be approved by the superior court and filed with either the clerk of the

supreme court or the court of appeals within the time allowed for appeal in civil cases. The jurisdictional requirements of this section are in addition to the provisions of this title relating to the service and filing of a notice of appeal)) shall be stayed by a petition for judicial review unless the petitioning employer shall first deposit an undertaking in an amount theretofore deemed by the commissioner to be due, if any, from the petitioning employer, together with interest thereon, if any, with the commissioner or in the registry of the court; PROVIDED, HOWEVER, That this section shall not be deemed to authorize a stay in the payment of benefits to an individual when such individual has been held entitled thereto by a decision of the commissioner which decision either affirms, reverses, or modifies a decision of an appeals tribunal.

Sec. 18. Section 130, chapter 35, Laws of 1945 and RCW 50.32.140 are each amended to read as follows:

((Appeals)) RCW 34.04.130 to the contrary notwithstanding, petitions to the superior court from decisions of the commissioner dealing with the applications or claims relating to benefit payments which were filed outside of this state with an authorized representative of the commissioner shall be ((taken to)) filed with the superior court of Thurston county which shall have the ((sole jurisdiction)) original venue of such appeals.

NEW SECTION. Sec. 19. There is hereby added to chapter 35, Laws of 1945 and to chapter 50.24 RCW a new section to read as follows:

For the purposes of liability for, collection of, and assessment of contributions, wages shall be deemed paid when such wages are contractually due but are unpaid because of the refusal or inability of the employer to make such payment.

NEW SECTION. Sec. 20. Section 47.64.050, chapter 13, Laws of 1961 and RCW 47.64.050 are each hereby repealed.

NEW SECTION. Sec. 21. This 1973 amendatory act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect on July 1, 1973.

Passed the House March 9, 1973.

Passed the Senate April 13, 1973.

Approved by the Governor April 24, 1973.

Filed in Office of Secretary of State April 25, 1973.