

State College campus as provided in section 10, chapter 281, Laws of 1969 ex. sess.: PROVIDED, That no funds authorized by this appropriation shall be expended unless the highway commission determines that funds available in the biennium ending June 30, 1977, are adequate to fund the commission's operational construction program for the biennium, but in such event the project described in this section may be funded with appropriations to the highway commission under program "C" construction if the commission determines the need for the project is as great as other projects funded during the biennium under priority programming procedures.

NEW SECTION. Sec. 3. If any provision of this act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 4. This 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 immediately.

Passed the House May 13, 1975.

Passed the Senate May 30, 1975.

Approved by the Governor June 26, 1975.

Filed in Office of Secretary of State June 27, 1975.

CHAPTER 228

[House Bill No. 436]

UNEMPLOYMENT COMPENSATION

AN ACT Relating to unemployment compensation; amending section 6, chapter 2, Laws of 1970 ex. sess. as amended by section 3, chapter 73, Laws of 1973 and RCW 50.04.355; amending section 46, chapter 35, Laws of 1945 and RCW 50.12.070; amending section 87, chapter 35, Laws of 1945 as last amended by section 7, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.20.190; amending section 11, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.020; amending section 1, chapter 200, Laws of 1969 ex. sess. and RCW 50.32.025; amending section 123, chapter 35, Laws of 1945 as amended by section 31, chapter 215, Laws of 1947 and RCW 50.32.070; adding a new section to chapter 50.04 RCW; adding a new chapter to Title 50 RCW to be codified as chapter 50.06 RCW; adding a new section to chapter 35, Laws of 1945 and to chapter 50.24 RCW to be codified as RCW 50.24.115; adding a new section to chapter 35, Laws of 1945 and to chapter 50.32 RCW to be codified as RCW 50.32.075; amending section 22, chapter 3, Laws of 1971, as amended by section 10, chapter 73, Laws of 1973, and RCW 50.44.050; repealing section 3, chapter 286, Laws of 1955, section 20, chapter 2, Laws of 1970 ex. sess., section 2, chapter 167, Laws of 1973 1st ex. sess. and RCW 50.20.030; and declaring an emergency.

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

Section 1. Section 6, chapter 2, Laws of 1970 ex. sess. as amended by section 3, chapter 73, Laws of 1973 and RCW 50.04.355 are each amended to read as follows:

On or before the fifteenth day of June of each year an "average annual wage", an "average weekly wage", a "qualifying annual wage", ~~((and))~~ a "qualifying weekly wage", and an "average annual wage for contributions purposes" shall be computed from information for the preceding calendar year including corrections thereof reported within three months after the close of that year by all employers

as defined in RCW 50.04.080 (~~on employers' contribution reports (including corrections thereof) filed within three months after the close of that year~~). The "average annual wage" is the quotient derived by dividing total remuneration reported by all employers by the average number of workers reported for all months and if the result is not a multiple of one dollar, ((and)) rounding the result to the next lower multiple of one dollar. The "average annual wage" thus obtained shall be divided by fifty-two and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar to determine the "average weekly wage". The "qualifying annual wage" shall be computed by multiplying the "average annual wage" by fifteen percent and if the result is not a multiple of fifty dollars, rounding the result to the next lower multiple of fifty dollars. The "qualifying weekly wage" shall be computed by multiplying the "average weekly wage" by fifteen percent and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar. The "average annual wage" for contribution purposes is the quotient derived by dividing total remuneration reported by all employers subject to contributions by the average number of workers reported for all months by these same employers and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

Sec. 2. Section 46, chapter 35, Laws of 1945 and RCW 50.12.070 are each amended to read as follows:

Each employing unit shall keep true and accurate work records, containing such information as the commissioner may prescribe. Such records shall be open to inspection and be subject to being copied by the commissioner or his authorized representatives at any reasonable time and as often as may be necessary. The commissioner 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 title. Each employer shall make periodic reports at such intervals as the commissioner may by regulation prescribe, setting forth the remuneration paid for employment to workers in its employ, the names of all such workers, the number of weeks for which the worker earned the "qualifying weekly wage" and such other information as the commissioner may by regulation prescribe.

In the event the employing unit fails or has failed to report the number of weeks in a reporting period for which a worker earned the "qualifying weekly wage" such number will be computed by the commissioner and given the same force and effect as if it had been reported by the employing unit. In computing the number of such weeks the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the "qualifying weekly wage" in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That the total number of weeks credited to the worker for any quarterly period shall not exceed thirteen weeks: PROVIDED, FURTHER, That the computation so made will not be subject to appeal by the employing unit.

Sec. 3. Section 87, chapter 35, Laws of 1945 as last amended by section 7, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.20.190 are each amended to read as follows:

An individual who is paid any amount as benefits under this title to which he or she 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))~~ may 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 individual's benefit year in which the purported overpayment was made unless the merits of the claim are subjected to administrative or judicial review in which event the period for serving the determination of liability shall be extended to allow service of the determination of liability during the six-month period following the final decision affecting the claim.

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. 4. Section 1, chapter 200, Laws of 1969 ex. sess. and RCW 50.32.025 are each amended to read as follows:

The appeal or petition from a determination, redetermination, order and notice of assessment, appeals decision, or commissioner's decision (~~(if such document be mailed, shall be deemed filed with the addressee on the postmarked date if said document is properly addressed and has sufficient postage affixed thereto)~~) which is (1) transmitted through the United States mail, shall be deemed filed and received by the addressee on the date shown by the United States postal service cancellation mark stamped by the United States postal service employees upon the envelope or other appropriate wrapper containing it or, (2) mailed but not received by the addressee, or where received and the United States postal service cancellation mark is illegible, erroneous or omitted, shall be deemed filed and received on the date it was mailed, if the sender establishes by competent evidence that the appeal or petition was deposited in the United States mail on or before the date due for filing; PROVIDED, That in the case of a metered cancellation mark by the sender and a United States postal service cancellation mark on the same envelope or other wrapper, the latter shall control; PROVIDED, FURTHER, That in any of the above circumstances, the appeal or petition must be properly addressed and have sufficient postage affixed thereto.

Sec. 5. Section 123, chapter 35, Laws of 1945 as amended by section 31, chapter 215, Laws of 1947 and RCW 50.32.070 are each amended to read as follows:

Within ten days from the date of notification or mailing, whichever is the earlier, of any decision of an appeal tribunal, the commissioner on his own order may, or upon petition of any interested party shall, take jurisdiction of the proceedings for the purpose of review thereof. Appeal from any decision of an appeal tribunal may be perfected so as to prevent finality of such decision if, within ten days from the date of mailing the appeal tribunal decision, or notification thereof, whichever is the earlier, a petition in writing for review by the commissioner is received by the commissioner or by such representative of the commissioner as the commissioner by regulation shall prescribe. The commissioner may also prevent finality of any decision of an appeal tribunal and take jurisdiction of the proceedings for his review thereof by entering an order so providing on his own motion and mailing a copy thereof to the interested parties within the same period allowed herein for receipt of a petition for review. The time limit provided herein (~~(for seeking review by the commissioner and)~~) for the commissioner's assumption of jurisdiction on his own motion for review shall be deemed to be jurisdictional.

Sec. 6. Section 11, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.020 are each amended to read as follows:

(1) An experience rating account shall be established and maintained for each employer based on existing records of the employment security department and shall be effective beginning with July 1, 1967. Benefits paid to any eligible individuals for benefit years beginning subsequent to June 30, 1967, shall be charged to the experience rating accounts of each of his employers during his base year in the same ratio that the wages paid by each employer to the individual during the

base year bear to the wages paid by all employers to that individual during that base year (~~(except that)~~).

(2) The legislature finds that certain benefit payments should not be charged to the experience rating accounts of employers whose employees are not covered under chapter 50.44 RCW, as follows:

(a) Benefits paid to any individuals later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer.

(b) Benefits paid to an individual under the provisions of RCW 50.12.050 shall not be charged to the account of any contribution paying employer if the wage credits earned in this state by the individual during his base year are less than the minimum amount necessary to qualify the individual for unemployment benefits.

(c) Benefits paid to an individual filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer.

NEW SECTION. Sec. 7. This chapter is enacted for the purpose of providing the protection of the unemployment compensation system to workers who have suffered a temporary total disability compensable under industrial insurance and is a recognition by this legislature of the economic hardship confronting those workers who have not been promptly reemployed after a prolonged period of temporary total disability.

NEW SECTION. Sec. 8. Only individuals who have suffered a temporary total disability and have received compensation under the industrial insurance laws of this state, any other state or the United States for a period of not less than thirteen consecutive calendar weeks by reason of such temporary total disability shall be allowed the benefits of this chapter.

NEW SECTION. Sec. 9. An application for initial determination made pursuant to this chapter, to be considered timely, must be filed in writing with the employment security department within twenty-six weeks following the week in which the period of temporary total disability commenced. Notice from the department of labor and industries shall satisfy this requirement. The records of the agency supervising the award of compensation shall be conclusive evidence of the fact of temporary disability and the beginning date of such disability. The employment security department shall process and issue an initial determination of entitlement or nonentitlement as the case may be.

For the purpose of this chapter, a special base year is established for an individual consisting of the first four of the last five completed calendar quarters immediately prior to the first day of the calendar week in which the individual's temporary total disability commenced, and a special individual benefit year is established consisting of the entire period of disability and a fifty-two consecutive week period commencing with the first day of the calendar week immediately following the week or part thereof with respect to which the individual received his final temporary total disability compensation under the applicable industrial insurance laws except that no special benefit year shall have a duration in excess of three hundred twelve calendar weeks: PROVIDED HOWEVER, That such special benefit year will not be established unless the criteria contained in RCW 50.04.030 has been met, except that an individual meeting the disability and filing

requirements of this chapter and who has an unexpired benefit year established which would overlap the special benefit year provided by this chapter, notwithstanding the provisions in RCW 50.04.030 relating to the establishment of a subsequent benefit year and RCW 50.40.010 relating to waiver of rights, may elect to establish a special benefit year under this chapter: PROVIDED FURTHER, That the unexpired benefit year shall be terminated with the beginning of the special benefit year if the individual elects to establish such special benefit year.

NEW SECTION. Sec. 10. The individual's weekly benefit amount and maximum amount payable during the special benefit year shall be governed by the provision contained in RCW 50.20.120. The individual's basic and continuing right to benefits shall be governed by the general laws and regulations relating to the payment of unemployment compensation benefits to the extent that they are not in conflict with the provisions of this chapter.

NEW SECTION. Sec. 11. The fact that wages, hours or weeks worked during the special base year may have been used in the computation of a prior valid claim for unemployment compensation shall not affect a claim for benefits made pursuant to the provisions of this chapter; however, wages, hours and weeks worked used in computing entitlement on a claim filed pursuant to this chapter shall not be available or used for establishing entitlement or amount of benefits in any succeeding benefit year.

NEW SECTION. Sec. 12. This chapter shall be available only to individuals who suffer a temporary total disability, compensable by an industrial insurance program, after the effective date of this chapter.

NEW SECTION. Sec. 13. Should any part of this chapter be declared unconstitutional by the final decision of any court or declared out of conformity by the United States secretary of labor, the commissioner shall immediately discontinue the payment of benefits based on this chapter, declare it inoperative and report that fact to the governor and the legislature.

NEW SECTION. Sec. 14. Sections 7 through 13 of this 1975 act shall constitute a new chapter in Title 50 RCW and shall be codified as chapter 50.06 RCW.

NEW SECTION. Sec. 15. There is added to chapter 35, Laws of 1945 and to chapter 50.24 RCW, a new section to be codified as RCW 50.24.115 to read as follows:

Whenever any order and notice of assessment or jeopardy assessment shall have become final in accordance with the provisions of this title the commissioner may file with the clerk of any county within the state a warrant in the amount of the notice of assessment plus interest and a filing fee of five dollars. The clerk of the county wherein the warrant is filed shall immediately designate a superior court cause number for such warrant, and the clerk shall cause to be entered in the judgment docket under the superior court cause number assigned to the warrant, the name of the employer mentioned in the warrant, the amount of the tax, interest and filing fee and the date when such warrant was filed. The aggregate amount of such warrant as docketed shall become a lien upon the title to, and interest in all real and personal property of the employer against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the office of such clerk. Such warrant so docketed shall be sufficient to support the issuance of writs

of execution and writs of garnishment in favor of the state in the manner provided by law in the case of civil judgment, wholly or partially unsatisfied. The clerk of the court shall be entitled to a filing fee of five dollars, which shall be added to the amount of the warrant, and charged by the commissioner to the employer or employing unit. A copy of the warrant shall be mailed to the employer or employing unit by certified mail to his last known address within five days of filing with the clerk.

NEW SECTION. Sec. 16. There is added to chapter 35, Laws of 1945, and to chapter 50.32 RCW a new section to be codified as RCW 50.32.075 to read as follows:

WAIVER OF TIME FOR APPEAL OR PETITION. For good cause shown the appeal tribunal or the commissioner may waive the time limitations for administrative appeals or petitions set forth in the provisions of this title.

Sec. 17. Section 22, chapter 3, Laws of 1971, as amended by section 10, chapter 73, Laws of 1973, and RCW 50.44.050, is amended to read as follows:

Benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title: **PROVIDED HOWEVER,** That benefits based on service in an instructional, research or principal administrative capacity in an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for an institution or institutions of higher education for both such academic years or both such terms; or during any non-work period occurring during a term that does not diminish the individual's salary for the term: **PROVIDED FURTHER,** That benefits based on service in an instructional, research, or principal administrative capacity in an educational institution other than an institution of higher education shall not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity in an educational institution or institutions other than an institution of higher education for both such academic years or both such terms; or during any non-work period occurring during a term that does not diminish the individual's salary for the term: **PROVIDED FURTHER,** That any employee of a common school district who is conclusively presumed to have been reemployed pursuant to RCW 28A.67.070 shall be deemed to have a contract for the ensuing term.

NEW SECTION. Sec. 18. Section 3, chapter 286, Laws of 1955, section 20, chapter 2, Laws of 1970 ex. sess., section 2, chapter 167, Laws of 1973 1st ex. sess. and RCW 50.20.030 are each repealed.

NEW SECTION. Sec. 19. All sections of this 1975 amendatory act are 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 the first Sunday following signature by the governor.

Passed the House June 7, 1975.

Passed the Senate June 6, 1975.

Approved by the Governor June 26, 1975.

Filed in Office of Secretary of State June 27, 1975.

CHAPTER 229

[House Bill No. 612]

BOARD OF ACCOUNTANCY— FEES, DETERMINATION

AN ACT Relating to accountancy; amending section 15, chapter 226, Laws of 1949 as amended by section 2, chapter 114, Laws of 1969 and RCW 18.04.160; amending section 19, chapter 226, Laws of 1949 as amended by section 3, chapter 114, Laws of 1969 and RCW 18.04.200; amending section 21, chapter 226, Laws of 1949 as amended by section 4, chapter 114, Laws of 1969 and RCW 18.04.220; amending section 27, chapter 226, Laws of 1949 as amended by section 5, chapter 114, Laws of 1969 and RCW 18.04.280; and amending section 28, chapter 226, Laws of 1949 as last amended by section 1, chapter 23, Laws of 1973 1st ex. sess. and RCW 18.04.290.

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

Section 1. Section 15, chapter 226, Laws of 1949 as amended by section 2, chapter 114, Laws of 1969 and RCW 18.04.160 are each amended to read as follows:

A candidate who fails an examination shall have the right to take succeeding examinations subject to such rules and regulations as the board may adopt governing reexaminations. The board may for good cause shown, waive the requirement that a candidate must have taken an examination at least once a year. An application for examination or reexamination in any subject shall be accompanied by a fee ~~((of forty dollars for all four sections of the examination, thirty dollars for three sections, and twenty dollars for one or two sections))~~ in an amount determined by the board in accordance with this chapter not to exceed seventy-five dollars.

Sec. 2. Section 19, chapter 226, Laws of 1949 as amended by section 3, chapter 114, Laws of 1969 and RCW 18.04.200 are each amended to read as follows:

The director of motor vehicles shall register a partnership as a partnership of certified public accountants if the partnership meets the following requirements:

(1) At least one partner must hold a valid certificate to practice in this state as a certified public accountant;

(2) Each partner personally engaged within this state in the practice of public accounting must hold a valid certificate to practice in this state as a certified public accountant; and

(3) Each partner must hold a valid certificate, license, permit or degree authorizing him to practice as a certified public accountant in a state, territory, or possession of the United States;

(4) Each resident manager in charge of an office of the partnership in this state must hold a valid certificate to practice in this state as a certified public accountant; and