

CHAPTER 33

[Substitute House Bill No. 563]

UNEMPLOYMENT COMPENSATION

AN ACT Relating to unemployment compensation; amending section 4, chapter 35, Laws of 1945 as last amended by section 1, chapter 73, Laws of 1973 and RCW 50.04.030; amending section 6, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 228, Laws of 1975 1st ex. sess. and RCW 50.04.355; amending section 46, chapter 35, Laws of 1945 as amended by section 2, chapter 228, Laws of 1975 1st ex. sess. and RCW 50.12.070; amending section 73, chapter 35, Laws of 1945 as last amended by section 21, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.050; amending section 74, chapter 35, Laws of 1945 as last amended by section 22, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.060; amending section 78, chapter 35, Laws of 1945 as amended by section 6, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.20.100; amending section 80, chapter 35, Laws of 1945 as last amended by section 5, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.120; amending section 89, chapter 35, Laws of 1945 as last amended by section 13, chapter 3, Laws of 1971 and RCW 50.24.010; adding a new section to chapter 35, Laws of 1945 and to chapter 50.20 RCW; adding a new section to chapter 35, Laws of 1945 and to chapter 50.24 RCW; establishing effective dates; and declaring an emergency.

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

Section 1. Section 4, chapter 35, Laws of 1945 as last amended by section 1, chapter 73, Laws of 1973 and RCW 50.04.030 are each amended to read as follows:

"Benefit year" with respect to each individual, means the fifty-two consecutive week period beginning with the first day of the calendar week (~~with respect to~~) in which the individual files an application for an initial determination and thereafter the fifty-two consecutive week period beginning with the first day of the calendar week (~~with respect to~~) in which the individual next files an application for an initial determination after the expiration of ~~(his)~~ the individual's last preceding benefit year: PROVIDED, HOWEVER, That the foregoing limitation shall not be deemed to preclude the establishment of a new benefit year under the laws of another state pursuant to any agreement providing for the interstate combining of employment and wages and the interstate payment of benefits nor shall this limitation be deemed to preclude the commissioner from backdating an initial application at the request of the claimant either for the convenience of the department of employment security or for any other reason deemed by the commissioner to be good cause.

An individual's benefit year shall be extended to be fifty-three weeks when at the expiration of fifty-two weeks the establishment of a new benefit year would result in the use of a quarter of wages in the new base year that had been included in the individual's prior base year.

No benefit year will be established unless it is determined that the individual earned wages in (~~"employment" during his base year of not less than the "qualifying annual wage" computed for the calendar year preceding the last June 30th immediately preceding his benefit year and either had "employment" in not less than sixteen weeks of his base year in each of which he earned the "qualifying weekly wage" computed for the second calendar year preceding the calendar year in which each such week ends or had~~) "employment" in not less than six hundred eighty hours of ((his)) the individual's base year: PROVIDED, HOWEVER, That a benefit year cannot be established if the base year wages include wages earned

prior to the establishment of a prior benefit year unless the individual earned wages in "employment" during the last two quarters of the new base year of not less than six times the weekly benefit amount computed for ((his)) the individual's new benefit year.

~~((As the change contained in the third paragraph of this section relating to the weeks worked qualification would invalidate basic data upon which benefit qualification determinations must be made the satisfaction of the weeks worked requirement will require as to base year weeks ending in the second two quarters of 1972 that the individual will have earned not less than the "qualifying weekly wage" computed for the calendar year 1971. Nothing in this paragraph or in the preceding paragraph shall be deemed to justify or support the redetermination of any monetary determination denying the establishment of a benefit year made prior to the effective date of this 1973 amendatory act.))~~

If the wages of an individual are not based upon a fixed duration of time or if the individual's wages are paid at irregular intervals or in such manner as not to extend regularly over the period of employment, the wages for any week shall be determined in such manner as the commissioner may by regulation prescribe. Such regulation shall, so far as possible, secure results reasonably similar to those which would prevail if the individual were paid his or her wages at regular intervals.

Sec. 2. Section 6, chapter 2, Laws of 1970 ex. sess. as last amended by section 1, chapter 228, Laws of 1975 1st ex. sess. 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", 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. 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, 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. 3. Section 46, chapter 35, Laws of 1945 as amended by section 2, chapter 228, Laws of 1975 1st ex. sess. 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 or her 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 or she 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, and until April 1, 1978, the number of weeks for which the worker earned the "qualifying weekly wage", and beginning July 1, 1977, the hours worked by each worker 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))~~ hours in a reporting period for which a worker ~~((earned the "qualifying weekly wage"))~~ worked 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))~~ hours worked 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"))~~ state's minimum 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. 4. Section 73, chapter 35, Laws of 1945 as last amended by section 21, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.050 are each amended to read as follows:

(1) An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has left work voluntarily without good cause and thereafter until he or she has obtained work and earned wages of not less than his or her suspended weekly benefit amount in each of five calendar weeks(: PROVIDED, That disqualification under this section shall not extend beyond the tenth calendar week following the week in which such individual left work)).

(2) An individual shall not be considered to have left work voluntarily without good cause when:

(a) He or she has left work to accept a bona fide job offer; or

(b) The separation was because of the illness or disability of the claimant or a member of the claimant's immediate family if the claimant took all reasonable precautions, in accordance with any regulations that the commissioner may prescribe, to protect his or her employment status by having promptly notified the employer of the reason for the absence and by having promptly requested reemployment when again able to assume employment.

(3) In determining whether an individual has left work voluntarily without good cause, the commissioner shall consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's

ability to perform the work, and such other work connected factors as the commissioner may deem pertinent, including state and national emergencies. Good cause shall not be established for voluntarily leaving work because of its distance from an individual's residence where the distance was known to the individual at the time he or she accepted the employment, nor because of any other significant work factor which was generally known and present at the time he or she accepted employment unless the related circumstances have so changed as to amount to a substantial involuntary deterioration of the work factor or unless the commissioner determines that other related circumstances would work an unconscionable hardship on the individual were he or she required to continue in the employment.

(4) Subsections (1) and (3) of this section shall not apply to an individual whose marital status or domestic responsibilities cause him or her to leave employment. Such an individual shall not be eligible for unemployment insurance benefits until he or she has requalified, either by obtaining work and earning wages of not less than the suspended weekly benefit amount in each of five calendar weeks or by reporting in person to the department during ten different calendar weeks and certifying on each occasion that he or she is ready, able, and willing to immediately accept any suitable work which may be offered, is actively seeking work pursuant to customary trade practices, and is utilizing such employment counseling and placement services as are available through the department.

Sec. 5. Section 74, chapter 35, Laws of 1945 as last amended by section 22, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.060 are each amended to read as follows:

An individual shall be disqualified from benefits beginning with the first day of the calendar week in which he or she has been discharged or suspended for misconduct connected with his or her work and thereafter until he or she has obtained work and earned wages of not less than ((his)) the suspended weekly benefit amount in each of five calendar weeks~~((~~PROVIDED, That disqualification under this section shall not extend beyond the tenth calendar week following the week in which such individual was discharged or suspended~~)).~~ An individual who has been discharged because of a felony of which he or she has been convicted or has admitted committing and which is connected with his or her work shall be disqualified from receiving any benefits for which base year credits are earned in any employment prior to the discharge.

Sec. 6. Section 78, chapter 35, Laws of 1945 as amended by section 6, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.20.100 are each amended to read as follows:

Suitable work for an individual is employment in an occupation in keeping with the individual's prior work experience, education, or training and if the individual has no prior work experience, special education, or training for employment available in the general area, then employment which the individual would have the physical and mental ability to perform. In determining whether work is suitable for an individual ((or whether an individual has left work voluntarily without good cause)), the commissioner shall also consider the degree of risk involved to ((his)) the individual's health, safety, and morals, ((his)) the individual's physical fitness ((and prior training, his experience and prior earnings, his)), the individual's length of unemployment and prospects for securing local work in ((his)) the individual's

customary occupation, the distance of the available work from ~~((his))~~ the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

Sec. 7. Section 80, chapter 35, Laws of 1945 as last amended by section 5, chapter 2, Laws of 1970 ex. sess. and RCW 50.20.120 are each amended to read as follows:

(1) Subject to the other provisions of this title benefits shall be payable to any eligible individual during ~~((his))~~ the individual's benefit year in a maximum amount equal to the lesser of thirty times the weekly benefit amount (determined hereinafter) or one-third of the individual's base year wages under this title.

(2) An individual's weekly benefit amount shall be an amount equal to one twenty-fifth of ~~((his))~~ the average quarterly wages of the individual's total wages during ~~((that))~~ the two quarters of ((his)) the individual's base year in which such total wages were highest, except that if such computed amount is less than seventeen dollars, the weekly benefit amount shall be deemed to be seventeen dollars. The maximum amount payable weekly shall be determined as of each June 30th to apply to benefit years beginning in the twelve-month period immediately following such June 30th. The maximum amount payable weekly shall be ~~((fifty))~~ fifty-five percent of the "average weekly wage" for the calendar year preceding such June 30th: PROVIDED, That if as of any June 30th the unemployment compensation trust fund balance has improved so that the employer contribution as determined pursuant to RCW 50.24.010 is less than three percent, the maximum amount payable weekly for benefit years beginning with the first full calendar week in July next following shall be sixty percent of the "average weekly wage" for the calendar year preceding such June 30: PROVIDED FURTHER, That if any weekly benefit or maximum benefit amount computed herein is not a multiple of one dollar, it shall be adjusted to the nearest multiple of one dollar, except that if the computed amount ends in fifty cents, it shall be adjusted to the next higher multiple of one dollar.

NEW SECTION. Sec. 8. There is added chapter 35, Laws of 1945 and to chapter 50.20 RCW a new section to read as follows:

Any individual registered at an established school in a course of study providing scholastic instruction of twelve or more hours per week, or the equivalent thereof, shall be disqualified from receiving benefits or waiting period credit for any week during the school year commencing with the first week of scholastic instruction or the week of leaving employment to return to school, whichever is the earlier, and ending with the week immediately before the first full week in which the individual is no longer registered for classes: PROVIDED, That this nonregistration will be for a period of sixty days or longer. The term "school" includes primary schools, secondary schools, and "institutions of higher education" as that phrase is defined in RCW 50.44.030.

This disqualification shall not apply to any individual who:

(1) Is in approved training within the meaning of RCW 50.20.043; or
 (2) Demonstrates to the commissioner by a preponderance of the evidence his or her actual availability for work, and in arriving at this determination the commissioner shall consider the following factors:

(a) Prior work history;

- (b) Scholastic history;
- (c) Past and current labor market attachment; and
- (d) Past and present efforts to seek work.

Sec. 9. Section 89, chapter 35, Laws of 1945 as last amended by section 13, chapter 3, Laws of 1971 and RCW 50.24.010 are each amended to read as follows:

Contributions shall accrue and become payable by each employer (except employers as described in RCW 50.44.010 who have properly elected to make payments in lieu of contributions and those employers who are required to make payments in lieu of contributions) for each calendar year in which ~~((he))~~ the employer is subject to this title at the rate of two and seven-tenths percent of wages paid each employee, except for such rates as determined for qualified employers according to chapter 50.29 RCW: PROVIDED, That if, as of any June 30th, the amount in the unemployment compensation fund is less than three and one-half percent of total remuneration paid by all employers during the preceding calendar year and reported on or before the March 31st following such year, contributions for the following calendar year for all employers shall be payable at the rate of three percent of wages subject to tax.

The amount of wages subject to tax for each individual as of January 1, 1971, shall be four thousand two hundred dollars. If the amount in the unemployment compensation fund on any June 30th, after January 1, 1971, is less than four and one-half percent of total remuneration paid by all employers during the preceding calendar year and reported on or before the March 31st following such year, the amount of wages subject to tax shall increase on the January 1st next following by six hundred dollars: PROVIDED, That the amount of wages subject to tax in any calendar year shall not exceed ~~((seventy-five))~~ eighty percent of the "average annual wage" for the second preceding calendar year rounded to the next lower multiple of three hundred dollars.

In making computations under this section and RCW 50.29.010, wages paid based on services for employers making payments in lieu of contributions shall not be considered remuneration. 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.

Contributions shall become due and be paid by each employer to the treasurer for the unemployment compensation fund in accordance with such regulations as the commissioner may prescribe, and shall not be deducted, in whole or in part, from the remuneration of individuals in employment of the employer. Any deduction in violation of the provisions of this section shall be unlawful.

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

NEW SECTION. Sec. 10. There is added to chapter 35, Laws of 1945 and to chapter 50.24 RCW a new section to read as follows:

Only during the 1978 and 1979 calendar years, contributions payable by employers under the provisions of RCW 50.24.010 shall be payable at the rate of three and three-tenths percent of wages subject to tax, rather than in accordance with the rates therein.

NEW SECTION. Sec. 11. The provisions of this 1977 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 ninety days after adjournment sine die of the 1977 1st Extraordinary Session (forty-fifth legislature) of the Washington State Legislature: **PROVIDED**, That the first paragraph of section 1 of this 1977 amendatory act shall take effect immediately and the remaining portion of section 1 of this 1977 amendatory act and all of section 2 of this 1977 amendatory act shall take effect commencing with benefit years beginning on and after October 1, 1978; section 7 of this 1977 amendatory act shall take effect commencing with benefit years beginning on and after July 3, 1977; sections 3, 4, 5, 6, and 8 of this 1977 amendatory act shall take effect on and after July 3, 1977.

Passed the House April 29, 1977.

Passed the Senate May 4, 1977.

Approved by the Governor May 16, 1977.

Filed in Office of Secretary of State May 16, 1977.

CHAPTER 34

[House Bill No. 657]

PUBLIC EMPLOYEES RETIREMENT SYSTEM BOARD—PUBLIC MEMBERS

AN ACT Relating to the Washington public employees retirement system; and amending section 3, chapter 274, Laws of 1947 as last amended by section 1, chapter 195, Laws of 1974 ex. sess. and RCW 41.40.030.

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

Section 1. Section 3, chapter 274, Laws of 1947 as last amended by section 1, chapter 195, Laws of 1974 ex. sess. and RCW 41.40.030 are each amended to read as follows:

The retirement board shall consist of twelve members, as follows: ~~((The insurance commissioner, the attorney general, the state treasurer, the state auditor))~~ Four members of the public appointed by the governor with the advice and consent of the senate, the members provided by RCW 41.26.050, and four elected representatives who shall have been members of the retirement system for at least five years, and each of whom shall be elected by active or retired members in their classification for a term of three years: **PROVIDED**, That the term of office of any employee representative serving as a member of the retirement board by appointment prior to March 21, 1961 shall continue until the expiration of the period of time for which such employee representative was appointed, except those board members provided by RCW 41.26.050. The active and retired members of the system shall be divided into four classifications for purposes of board representation as follows: Classification A shall consist of all employees of the state government;