

CHAPTER 13

[Engrossed Second Substitute Senate Bill No. 3085]

UNEMPLOYMENT COMPENSATION—FEDERAL INTEREST PAYMENT
 FUND—ADDITIONAL BENEFIT PERIOD EXTENDED—EMPLOYER
 CONTRIBUTIONS MODIFIED—DEPARTMENT OF EMPLOYMENT SECURITY
 DUTIES

AN ACT Relating to unemployment compensation; amending section 8, chapter 35, Laws of 1945 as last amended by section 1, chapter 3, Laws of 1971 and RCW 50.04.070; amending section 8, chapter 266, Laws of 1959 as amended by section 3, chapter 3, Laws of 1971 and RCW 50.04.072; amending section 60, chapter 35, Laws of 1945 as last amended by section 1, chapter 142, Laws of 1980 and RCW 50.16.010; amending section 17, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.22.100; amending section 18, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.22.110; amending section 19, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.22.120; amending section 89, chapter 35, Laws of 1945 as last amended by section 9, chapter 33, Laws of 1977 ex. sess. and RCW 50.24.010; adding new sections to chapter 50.16 RCW; creating new sections; repealing section 13, chapter 2, Laws of 1970 ex. sess., section 12, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.29.040; repealing section 14, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.050; and repealing section 18, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.140; and declaring an emergency.

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

Sec. 1. Section 17, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.22.100 are each amended to read as follows:

(1) Additional benefits are payable to eligible persons who are "exhaustees" with respect to extended benefits. The term "exhaustee" is deemed to have the same meaning with respect to extended benefits as with respect to regular benefits.

(2) Additional benefit amounts shall be calculated pursuant to RCW 50.22.050(1) (~~and (2)~~) (a) and (b).

(3) Eligibility for additional benefits shall be determined and benefits shall be paid under the same terms and conditions as for extended benefits.

Sec. 2. Section 18, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.22.110 are each amended to read as follows:

(1) Notwithstanding RCW 50.22.010(8)(a), an additional benefit period is established (~~for weeks of unemployment which begin on or after the third Sunday following April 2, 1982. PROVIDED, That this additional benefit period will be suspended~~) from March 31, 1983, through March 31, 1984; PROVIDED, That notwithstanding RCW 50.22.010(8)(c) and (c), this additional benefit period will be temporarily suspended during any week in which federally funded benefits beyond thirty-nine weeks are payable or during any week in which an extended benefit period is not in effect.

~~((2) Additional benefits are payable to otherwise eligible persons who have exhausted extended benefits on their most recent claim after July 1, 1980.~~

(3)) The department of employment security shall develop proposals for a permanent program of additional benefits. The proposals shall address alternatives in trigger mechanisms, benefit levels, eligibility requirements, and unemployment insurance financing.

Sec. 3. Section 19, chapter 18, Laws of 1982 1st ex. sess. and RCW 50.22.120 are each amended to read as follows:

Benefits under RCW 50.22.100 and 50.22.110 are not payable for weeks of unemployment beginning after (~~February 26, 1983~~) March 31, 1984, unless extended by law.

**Sec. 4. Section 89, chapter 35, Laws of 1945 as last amended by section 9, chapter 33, Laws of 1977 ex. sess. 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 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: PROVIDED FURTHER, That, if as of January 1, 1984, the amount of the unemployment fund has a deficit greater than fifty million dollars, or as of July 1, 1984, the fund has a deficit greater than one hundred ten million dollars, contributions for all employers shall be assessed a surcharge of fifteen one-hundredths of one percent of the wages subject to tax effective January 1, 1984, or July 1, 1984, if the fund deficit is greater than the amounts specified in this section.

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 eighty percent of the "average annual wage" for the second preceding calendar year rounded to the next lower multiple of three hundred dollars.

If, as of January 1, 1984, the amount of the unemployment fund has a deficit greater than fifty million dollars, or as of July 1, 1984, the fund has a

deficit greater than one hundred ten million dollars, the amount of wages subject to tax shall be eighty percent of the "average annual wage for contributions purposes" for the second preceding calendar year rounded to the next lower multiple of three hundred dollars, and shall be effective January 1, 1984, or July 1, 1984, if the fund deficit is greater than the amount specified in this paragraph.

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.

*Sec. 4. was vetoed, see message at end of chapter.

Sec. 5. Section 60, chapter 35, Laws of 1945 as last amended by section 1, chapter 142, Laws of 1980 and RCW 50.16.010 are each amended to read as follows:

There shall be maintained as special funds, separate and apart from all public moneys or funds of this state an unemployment compensation fund (~~and~~), an administrative contingency fund, and a federal interest payment fund, which shall be administered by the commissioner exclusively for the purposes of this title, and to which RCW 43.01.050 shall not be applicable. The unemployment compensation fund shall consist of

- (1) all contributions and payments in lieu of contributions collected pursuant to the provisions of this title,
- (2) interest earned upon any moneys in the fund,
- (3) any property or securities acquired through the use of moneys belonging to the fund,
- (4) all earnings of such property or securities,
- (5) any moneys received from the federal unemployment account in the unemployment trust fund in accordance with Title XII of the social security act, as amended,

(6) all money recovered on official bonds for losses sustained by the fund,

(7) all money credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended,

(8) all money received from the federal government as reimbursement pursuant to section 204 of the federal-state extended compensation act of 1970 (84 Stat. 708-712; 26 U.S.C. Sec. 3304), and

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

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

The administrative contingency fund shall consist of all interest on delinquent contributions collected pursuant to this title after June 20, 1953, all fines and penalties collected pursuant to the provisions of this title, and all sums recovered on official bonds for losses sustained by the fund: PROVIDED, That all fees, fines, forfeitures and penalties collected or assessed by a justice court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW as now exists or is later amended. Moneys available in the administrative contingency fund shall be expended upon the direction of the commissioner, with the approval of the governor, whenever it appears to him or her that such expenditure is necessary for:

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

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

NEW SECTION. Sec. 6. There is added to chapter 50.16 RCW a new section to read as follows:

A separate and identifiable fund to provide for the payment of interest on advances received from this state's account in the federal unemployment trust fund shall be established and administered under the direction of the commissioner. This fund shall be known as the federal interest payment fund and shall consist of contributions paid under section 7 of this act.

NEW SECTION. Sec. 7. There is added to chapter 50.16 RCW a new section to read as follows:

The federal interest payment fund shall consist of contributions payable by each employer (except employers as described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, employers who are required to make payments in lieu of contributions, and employers paying contributions under RCW 50.44.035) for any calendar quarter which begins on or after January 1, 1984, and for which the commissioner determines that the department will have an outstanding

balance of accruing federal interest at the end of the calendar quarter. The amount of wages subject to tax shall be determined according to RCW 50.24.010. The tax rate applicable to wages paid during the calendar quarter shall be determined by the commissioner and shall not exceed fifteen one-hundredths of one percent. In determining whether to require contributions as authorized by this section, the commissioner shall consider the current balance in the federal interest payment fund and the projected amount of interest which will be due and payable as of the following September 30. Any excess moneys in the federal interest payment fund shall be retained in the fund for future interest payments.

Contributions under this section shall become due and be paid by each employer in accordance with such rules as the commissioner may prescribe and shall not be deducted, in whole or in part, from the remuneration of individuals in the employ of the employer. Any deduction in violation of this section is unlawful.

In the payment of any contributions under this section, 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. 8. No later than January 15, 1984, the commissioner shall report to the legislature on the federal interest payment fund. The report shall include:

- (1) Projected deposits to and expenditures from the fund during calendar year 1984;
- (2) Any recommended adjustment of the tax rate authorized under section 7 of this act; and
- (3) Any other information deemed necessary by the legislature or the commissioner.

Sec. 9. Section 8, chapter 35, Laws of 1945 as last amended by section 1, chapter 3, Laws of 1971 and RCW 50.04.070 are each amended to read as follows:

"Contributions" means the money payments due to the state unemployment compensation fund as provided in RCW 50.24.010 or to the federal interest payment fund under section 7 of this 1983 act.

Sec. 10. Section 8, chapter 266, Laws of 1959 as amended by section 3, chapter 3, Laws of 1971 and RCW 50.04.072 are each amended to read as follows:

The terms "contributions" and "payments in lieu of contributions" used in this title, whether singular or plural, designate the money payments to be made to the state unemployment compensation fund or to the federal interest payment fund under section 7 of this 1983 act and are deemed to be taxes due to the state of Washington.

NEW SECTION. Sec. 11. (1) The department of employment security shall develop a data base for the following elements of an experience rating system:

(a) A ratio of benefits charged to the accounts of employers during the forty-eight consecutive months immediately preceding the computation date to the taxable payrolls of the employers for the same forty-eight month period. The computations for determining qualified employers shall be limited to the forty-eight month period described above; and

(b) Noncharging of: (i) Benefits paid after December 31, 1983, representing the state's share of benefits payable under chapter 50.22 RCW, to the employer's experience rating account; and (ii) benefits paid after December 31, 1983, to a worker who requalifies for benefits under RCW 50.20.050 or 50.20.060 to the experience rating account of the employer with whom the disqualifying separation took place.

(2) The department shall also provide information as requested by the senate committee on commerce and labor and the house committee on labor regarding: (a) Alternative seasonality provisions which would recognize the potential burden on employers who must, through no fault of their own, vary their work force, while insuring that employees who are unemployed, through no fault of their own, are protected; (b) alternative unemployment compensation financing systems; and (c) the adequacy of benefit levels.

The department shall make an initial report to the legislature by July 1, 1983.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

(1) Section 13, chapter 2, Laws of 1970 ex. sess., section 12, chapter 158, Laws of 1973 1st ex. sess. and RCW 50.29.040;

(2) Section 14, chapter 2, Laws of 1970 ex. sess. and RCW 50.29.040 [50.29.050];

(3) Section 18, chapter 2, Laws of 1970 ex. sess., and RCW 50.29.140.

NEW SECTION. Sec. 13. If any part of this act is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of this act is hereby declared to be inoperative solely to the extent of the conflict, and such finding or determination shall not affect the operation of the remainder of this act. The rules under this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

NEW SECTION. Sec. 14. 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 Senate May 4, 1983.

Passed the House May 3, 1983.

Approved by the Governor May 11, 1983, with the exception of section 4, which was vetoed.

Filed in Office of Secretary of State May 11, 1983.

Note: Governor's explanation of partial veto is as follows:

"I am returning herewith, without my approval as to section 4, Second Substitute Senate Bill No. 3085, entitled:

"AN ACT Relating to unemployment compensation."

This bill provides for a one-year extension of the unemployment insurance additional benefits program, to be implemented only when the corresponding Federal program ends. If and when these benefits are paid, and if the unemployment fund thereby goes into deficit status, sections 4 and 5 provide for ways to finance the deficit. At a given dollar deficit, section 4 could mandate a surcharge in the rate at which employers pay into the fund as well as increase the base (to 80 percent of the average annual wage) on which the rate is paid. Potentially, this could amount to a very substantial increase in employer contributions. There is no mechanism for removing or reducing the surcharge or base once the deficit is made up. In light of the fact that section 5 provides for an alternative way to finance the deficit, by establishing (through employer contributions) a Federal interest payment fund that would pay for the interest on funds borrowed from the Federal government, the potentially onerous impact of section 4 is unwarranted. For that reason I have vetoed section 4.

With the exception of section 4, which is vetoed, Second Substitute Senate Bill No. 3085 is approved."

CHAPTER 14

[Substitute Senate Bill No. 3538]

TRAFFIC SAFETY COMMISSION—DUTIES MODIFIED—SUNSET TERMINATION REPEALED

AN ACT Relating to the traffic safety commission; amending section 4, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.040; amending section 7, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.060; repealing section 10, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.090; repealing section 11, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.100; repealing section 12, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.110; repealing section 13, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.120; repealing section 35, chapter 99, Laws of 1979 and RCW 43.131.217; and repealing section 77, chapter 99, Laws of 1979 and RCW 43.131.218.

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

Sec. 1. Section 4, chapter 147, Laws of 1967 ex. sess. and RCW 43.59.040 are each amended to read as follows:

In addition to other responsibilities set forth in this chapter the commission shall:

(1) Advise and confer with the governing authority of any political subdivision of the state deemed eligible under the federal Highway Safety Act