

Title 50

UNEMPLOYMENT COMPENSATION

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Bringing in out-of-state persons to replace employees involved in labor dispute—Penalty: RCW 49.44.100.

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Unfair practices of employment agencies: RCW 49.60.200.

Chapter 50.01 RCW GENERAL PROVISIONS

Sections

- 50.01.005 Short title.
- 50.01.010 Preamble.

50.01.005 Short title. This title shall be known and may be cited as the "Employment Security Act." [1953 ex.s. c 8 § 24; 1945 c 35 § 1; Rem. Supp. 1945 § 9998-140.]

50.01.010 Preamble. Whereas, economic insecurity due to unemployment is a serious menace to the health, morals, and welfare of the people of this state; involuntary unemployment is, therefore, a subject of general interest and concern which requires appropriate action by the legislature to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his or her family. Social security requires protection against this greatest hazard of our economic life. This can be provided only by application of the insurance principle of sharing the risks, and by the systematic accumulation of

funds during periods of employment to provide benefits for periods of unemployment, thus maintaining purchasing powers and limiting the serious social consequences of relief assistance. The state of Washington, therefore, exercising herein its police and sovereign power endeavors by this title to remedy any widespread unemployment situation which may occur and to set up safeguards to prevent its recurrence in the years to come. The legislature, therefore, declares that in its considered judgment the public good, and the general welfare of the citizens of this state require the enactment of this measure, under the police powers of the state, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own, and that this title shall be liberally construed for the purpose of reducing involuntary unemployment and the suffering caused thereby to the minimum. [2010 c 8 § 13001; 2005 c 133 § 2; 2003 2nd sp.s. c 4 § 1; 1945 c 35 § 2; Rem. Supp. 1945 § 9998-141. Prior: 1937 c 162 § 2.]

Findings—Intent—Conflict with federal requirements—Effective date—2005 c 133: See notes following RCW 50.20.120.

Additional notes found at www.leg.wa.gov

Chapter 50.04 RCW DEFINITIONS

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"Application for initial determination" defined: RCW 50.20.140.

"Claim for benefits" defined: RCW 50.20.140.

"Claim for waiting period" defined: RCW 50.20.140.

50.04.020 Base year—Alternative base year. "Base year" with respect to each individual, shall mean either the first four of the last five completed calendar quarters or the last four completed calendar quarters immediately preceding the first day of the individual's benefit year.

For the purposes of establishing a benefit year, the department shall initially use the first four of the last five completed calendar quarters as the base year. If a benefit year is not established using the first four of the last five calendar quarters as the base year, the department shall use the last four completed calendar quarters as the base year.

Computations using the last four completed calendar quarters shall be based on available wage items processed as of the close of business on the day preceding the date of application. The department shall promptly contact employers to request assistance in obtaining wage information for the last completed calendar quarter if it has not been reported at the time of initial application. [1994 c 3 § 1; 1987 c 278 § 1; 1970 ex.s. c 2 § 1; 1945 c 35 § 3; Rem. Supp. 1945 § 9998-142. Prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.030 Benefit year. "Benefit year" with respect to each individual, means the fifty-two consecutive week period

beginning with the first day of the calendar week 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 in which the individual next files an application for an initial determination after the expiration of 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" in not less than six hundred eighty hours of 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 worked and earned wages since the last separation from employment immediately before the application for initial determination in the previous benefit year if the applicant was an unemployed individual at the time of application, or since the initial separation in the previous benefit year if the applicant was not an unemployed individual at the time of filing an application for initial determination for the previous benefit year, of not less than six times the weekly benefit amount computed for the individual's new benefit year.

If an individual's prior benefit year was based on the last four completed calendar quarters, a new benefit year shall not be established until the new base year does not include any hours used in the establishment of the prior benefit year.

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. [1991 c 117 § 1; 1990 c 245 § 1. Prior: 1987 c 278 § 2; 1987 c 256 § 1; 1977 ex.s. c 33 § 1; 1973 c 73 § 1; 1970 ex.s. c 2 § 2; 1949 c 214 § 1; 1945 c 35 § 4; Rem. Supp. 1949 § 9998-143; prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.040 Benefits. "Benefits" means the compensation payable to an individual, as provided in this title, with respect to his or her unemployment. [2010 c 8 § 13002; 1945 c 35 § 5; Rem. Supp. 1945 § 9998-144. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 219 § 19; 1937 c 162 § 19.]

50.04.050 Calendar quarter. "Calendar quarter" means the period of three consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st. [1945 c 35 § 6; Rem. Supp. 1945 § 9998-145. Prior: 1943 c 127 § 13; 1939 c 214 § 19; 1937 c 162 § 19.]

50.04.060 Commissioner. "Commissioner" means the administrative head of the state employment security department referred to in this title. [1947 c 215 § 1; 1945 c 35 § 7; Rem. Supp. 1947 § 9998-146. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

50.04.065 Common paymaster or pay agent. (1) For purposes of this title, "common paymaster" or "common pay agent" means an independent third party who contracts with, and represents, two or more employers, and who files a combined tax report for those employers.

(2) Common paymaster combined tax reporting is prohibited. "Common paymaster" does not meet the definition of a joint account under RCW 50.24.170.

(3) A common pay agent or common paymaster is not an employer as defined in RCW 50.04.080 or an employing unit as defined in RCW 50.04.090. [2007 c 146 § 16.]

Additional notes found at www.leg.wa.gov

50.04.070 Contributions. "Contributions" means the money payments due to the state unemployment compensation fund as provided in RCW 50.24.010 or to the special account in the administrative contingency fund under RCW 50.24.014. [2012 c 198 § 9; 1985 ex.s. c 5 § 4; 1983 1st ex.s. c 13 § 9; 1971 c 3 § 1; 1951 c 215 § 1; 1945 c 35 § 8; Rem. Supp. 1945 § 9998-147. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Effective date—2012 c 198: See note following RCW 70.94.6532.

Additional notes found at www.leg.wa.gov

50.04.072 Contributions—"Contributions" and "payments in lieu of contributions" as money payments and taxes due state. 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 special account in the administrative contingency fund under RCW 50.24.014 and are deemed to be taxes due to the state of Washington. [2012 c 198 § 10; 1985 ex.s. c 5 § 5; 1983 1st ex.s. c 13 § 10; 1971 c 3 § 3; 1959 c 266 § 8.]

Effective date—2012 c 198: See note following RCW 70.94.6532.

Additional notes found at www.leg.wa.gov

50.04.073 Contributions—As including "payments in lieu of contributions"—Scope. The term "contributions" as used in this title shall be deemed to include "payments in lieu of contributions" to the extent that such usage is consistent with the purposes of this title. Such construction shall include but not be limited to those portions of this title dealing with assessments, interest, penalties, liens, collection procedures and remedies, administrative and judicial review, and the imposition of administrative, civil and criminal sanctions. [1983 1st ex.s. c 23 § 1; 1971 c 3 § 4.]

Additional notes found at www.leg.wa.gov

50.04.075 Dislocated worker. (1) With respect to claims with an effective date prior to July 1, 2012, "dislocated worker" means any individual who:

(a) Has been terminated or received a notice of termination from employment;

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits; and

(c) Is unlikely to return to employment in the individual's principal occupation or previous industry because of a diminishing demand for their skills in that occupation or industry.

(2) With respect to claims with an effective date on or after July 1, 2012, "dislocated worker" means any individual who:

(a) Has been involuntarily and indefinitely separated from employment as a result of a permanent reduction of operations at the individual's place of employment, has separated from a declining occupation, or has separated from employment as a result of chapter 179, Laws of 2018; and

(b) Is eligible for or has exhausted entitlement to unemployment compensation benefits. [2018 c 179 § 11; 2011 c 4 § 12; 1984 c 181 § 1.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Dislocated worker's eligibility for benefits: RCW 50.20.043.

50.04.080 Employer. "Employer" means any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this title. [2013 c 250 § 3; 2007 c 146 § 19; 1985 c 41 § 1; 1971 c 3 § 5; 1949 c 214 § 2; 1945 c 35 § 9; Rem. Supp. 1949 § 9998-148. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Conflict with federal requirements—Effective date—2013 c 250: See notes following RCW 50.12.070.

Additional notes found at www.leg.wa.gov

50.04.090 Employing unit. "Employing unit" means any individual or any type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, which has or subsequent to January 1, 1937, had in its employ or in its "employment" one or more individuals performing services within this state. The state and its political subdivisions shall be deemed employing units as to any transactions occurring on or after September 21, 1977, which would render an employing unit liable for contributions, interest, or penalties under RCW 50.24.130. "Employing unit" includes Indian tribes as defined in RCW 50.50.010. [2013 c 250 § 4; 2007 c 146 § 20; 2001 1st sp.s. c 11 § 1; 1983 1st ex.s. c 23 § 2; 1977 ex.s. c 73 § 1; 1947 c 215 § 2; 1945 c 35 § 10; Rem. Supp. 1947 § 9998-149. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Conflict with federal requirements—Effective date—2013 c 250: See notes following RCW 50.12.070.

Additional notes found at www.leg.wa.gov

50.04.100 Employment. "Employment", subject only to the other provisions of this title, means personal service, of whatever nature, unlimited by the relationship of master and servant as known to the common law or any other legal relationship, including service in interstate commerce, performed for wages or under any contract calling for the performance of personal services, written or oral, express or implied.

Except as provided by RCW 50.04.145, personal services performed for an employing unit by one or more contractors or subcontractors acting individually or as a partnership, which do not meet the provisions of RCW 50.04.140, shall be considered employment of the employing unit: PROVIDED, HOWEVER, That such contractor or subcontractor shall be an employer under the provisions of this title in respect to personal services performed by individuals for such contractor or subcontractor. [1982 1st ex.s. c 18 § 14; 1945 c 35 § 11; Rem. Supp. 1945 § 9998-150. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.110 Employment—Situs of service. The term "employment" shall include an individual's entire service performed within or without or both within and without this state, if

(1) The service is localized in this state; or

(2) The service is not localized in any state, but some of the service is performed in this state, and

(a) the base of operations, or if there is no base of operations, then the place from which such service is directed or controlled is in this state; or

(b) the base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state; or

(3) The service is performed within the United States, the Virgin Islands or Canada, if

(a) such service is not covered under the unemployment compensation law of any other state, the Virgin Islands or Canada, and

(b) the place from which the service is directed or controlled is in this state. [1971 c 3 § 6; 1945 c 35 § 12; Rem. Supp. 1945 § 9998-151. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 19; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.115 Employment—Out-of-state service, election. Services not covered under RCW 50.04.110 or 50.04.116 which are performed entirely without this state, with respect to no part of which contributions, interest, or penalties are required and paid under an unemployment compensation law of any other state or of the federal government, shall be deemed to be employment subject to this title if the individual performing such services is a resident of this state and the commissioner approves the election of the employing unit for whom such services are performed that the entire service of such individual shall be deemed to be employment subject to this title. [1983 1st ex.s. c 23 § 3; 1971 c 3 § 8;

1945 c 35 § 13; Rem. Supp. 1945 § 9998-152. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1937 c 162 § 19. Formerly RCW 50.04.130.]

Additional notes found at www.leg.wa.gov

50.04.116 Employment—Out-of-state service, when included—"American employer" defined. The term "employment" shall include the service of an individual who is a citizen of the United States, performed outside the United States (except in Canada, and in the case of the Virgin Islands after December 31, 1971 and prior to January 1 of the year following the year in which the United States secretary of labor approves the unemployment compensation law of the Virgin Islands under section 3304(a) of the Internal Revenue Code of 1954) in the employ of an American employer (other than service which is deemed "employment" under the provisions of RCW 50.04.110 or 50.04.120 or the parallel provisions of another state's law), if:

(1) The employer's principal place of business in the United States is located in this state; or

(2) The employer has no place of business in the United States but:

(a) The employer is an individual who is a resident of this state; or

(b) The employer is a corporation which is organized under the laws of this state; or

(c) The employer is a partnership or a trust and the number of the partners or trustees who are residents of this state is greater than the number who are residents of any one other state; or

(3) None of the criteria in subsections (1) and (2) of this section is met but the employer has elected coverage in this state, or the employer having failed to elect coverage in any state, the individual has filed a claim for benefits, based on such service, under the laws of this state.

(4) An "American employer", for the purposes of this section, means a person who is:

(a) An individual who is a resident of the United States; or

(b) A partnership if two-thirds or more of the partners are residents of the United States; or

(c) A trust, if all of the trustees are residents of the United States; or

(d) A corporation organized under the laws of the United States or of any state. [1977 ex.s. c 292 § 1; 1971 c 3 § 7.]

Additional notes found at www.leg.wa.gov

50.04.120 Employment—Localized service. Service shall be deemed to be localized within a state, if

(1) the service is performed entirely within the state; or

(2) the service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; for example, is temporary or transitory in nature or consists of isolated transactions. [1945 c 35 § 14; Rem. Supp. 1945 § 9998-153. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

50.04.125 Employment—Foreign degree-granting institutions—Employee services localized in country of domicile. The services of employees of a foreign degree-

granting institution who are nonimmigrant aliens under the immigration laws of the United States, shall, for the purposes of RCW 50.04.120, be considered to be localized or principally localized, in the country of domicile of the foreign degree-granting institution as defined in RCW 28B.90.010 in those instances where the income of those employees would be exempt from taxation by virtue of the terms and provisions of any treaty between the United States and the country of domicile of the foreign degree-granting institution. However, a foreign degree-granting institution is not precluded from otherwise establishing that a nonimmigrant employee's services are, for the purpose of such statutes, principally located in its country of domicile. [1993 c 181 § 8.]

50.04.140 Employment—Exception tests. Services performed by an individual for remuneration shall be deemed to be employment subject to this title unless and until it is shown to the satisfaction of the commissioner that:

(1)(a) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(b) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service.

(2) Or as a separate alternative, it shall not constitute employment subject to this title if it is shown that:

(a) Such individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; and

(b) Such service is either outside the usual course of business for which such service is performed, or that such service is performed outside of all the places of business of the enterprises for which such service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed; and

(c) Such individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or such individual has a principal place of business for the work the individual is conducting that is eligible for a business deduction for federal income tax purposes; and

(d) On the effective date of the contract of service, such individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting; and

(e) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, such individual has established an account with the department of revenue, and other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received

a unified business identifier number from the state of Washington; and

(f) On the effective date of the contract of service, such individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business which the individual is conducting. [1991 c 246 § 6; 1945 c 35 § 15; Rem. Supp. 1945 § 9998-154. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.145 Employment—Exclusions. The term "employment" shall not include services which require registration under chapter 18.27 RCW or licensing under chapter 19.28 RCW rendered by an individual when:

(1) The individual has been and will continue to be free from control or direction over the performance of the service, both under the contract of service and in fact;

(2) The service is either outside the usual course of business for which the service is performed, or the service is performed outside of all the places of business of the enterprise for which the service is performed, or the individual is responsible, both under the contract and in fact, for the costs of the principal place of business from which the service is performed;

(3) The individual is customarily engaged in an independently established trade, occupation, profession, or business, of the same nature as that involved in the contract of service, or the individual has a principal place of business for the business the individual is conducting that is eligible for a business deduction for federal income tax purposes, other than that furnished by the employer for which the business has contracted to furnish services;

(4) On the effective date of the contract of service, the individual is responsible for filing at the next applicable filing period, both under the contract of service and in fact, a schedule of expenses with the internal revenue service for the type of business the individual is conducting;

(5) On the effective date of the contract of service, or within a reasonable period after the effective date of the contract, the individual has an active and valid certificate of registration with the department of revenue, and an active and valid account with any other state agencies as required by the particular case, for the business the individual is conducting for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington;

(6) On the effective date of the contract of service, the individual is maintaining a separate set of books or records that reflect all items of income and expenses of the business that the individual is conducting; and

(7) On the effective date of the contract of service, the individual has a valid contractor registration pursuant to chapter 18.27 RCW or an electrical contractor license pursuant to chapter 19.28 RCW. [2008 c 102 § 1; 1983 1st ex.s. c 23 § 25; 1982 1st ex.s. c 18 § 13.]

Additional notes found at www.leg.wa.gov

50.04.148 Employment—Services performed by musician or entertainer. (1) The term "employment" shall not include services performed by a musician or entertainer under a written contract with a purchaser of the services for a

specific engagement or engagements when such musician or entertainer performs no other duties for the purchaser and is not regularly and continuously employed by the purchaser. The contract shall designate the leader of the music or entertainment group. A music or entertainment business or a leader of a music or entertainment group shall be considered an employer and not a purchaser of music or entertainment services.

(2) Any musician or entertainer who performs for a music or entertainment business or as a member of a music or entertainment group is deemed an employee of the business or group and the business or the leader of the group shall be required to register as an employer with the department.

(3) Purchasers of services under subsection (1) of this section shall not be subject to RCW 50.24.130 relating to a principal's liability for unpaid contributions if the services are purchased from a business or group registered as an employer with the department.

(4) The term "music or entertainment business" or "group" as used in this section means an employer whose principal business activity is music or entertainment. The term does not include those entities who provide music or entertainment for members or patrons incidental to their principal business activity, and does not include an individual employing musicians or entertainers on a casual basis. [1985 c 47 § 1.]

Additional notes found at www.leg.wa.gov

50.04.150 Employment—Agricultural labor. Except as otherwise provided in RCW 50.04.155, the term "employment" shall not include service performed in agricultural labor by individuals who are enrolled as students and regularly attending classes, or are between two successive academic years or terms, at an elementary school, a secondary school, or an institution of higher education as defined in RCW 50.44.037 and in the case of corporate farms not covered under RCW 50.04.155, the provisions regarding family employment in RCW 50.04.180 shall apply.

Agricultural labor is defined as services performed:

(1) On a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wild life, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment; or

(2) In packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this paragraph shall not be deemed to be applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting and processing of oysters or raising and harvesting of mushrooms or in connection with any agricultural or horticultural commodity after its delivery to a terminal

market for distribution for consumption. [1989 c 380 § 78; 1977 ex.s. c 292 § 2; 1957 c 264 § 1; 1947 c 215 § 3; 1945 c 35 § 16; Rem. Supp. 1945 § 9998-155. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.1501 Employment—Farm internship program. (Expires December 31, 2019.) (1) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" does not include service performed in agricultural labor by a farm intern providing his or her services under a farm internship program as established in RCW 49.12.470.

(2) For purposes of this section, "agricultural labor" means:

(a) Services performed on a farm, in the employ of any person, in connection with the cultivation of the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and furbearing animals and wildlife, or in the employ of the owner or tenant or other operator of a farm in connection with the operation, management, conservation, improvement, or maintenance of such farm and its tools and equipment;

(b) Services performed in packing, packaging, grading, storing, or delivering to storage, or to market or to a carrier for transportation to market, any agricultural or horticultural commodity; but only if such service is performed as an incident to ordinary farming operations. The exclusions from the term "employment" provided in this subsection (2)(b) are not applicable with respect to commercial packing houses, commercial storage establishments, commercial canning, commercial freezing, or any other commercial processing or with respect to services performed in connection with the cultivation, raising, harvesting[,] and processing of oysters or raising and harvesting of mushrooms; or

(c) Direct local sales of any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption. [2014 c 131 § 4.]

Expiration date—2014 c 131: See note following RCW 49.12.470.

50.04.155 Service performed in agricultural labor for farm operator or crew leader. (1) Service performed in agricultural labor on and after January 1, 1978, for a farm operator or crew leader will be deemed services in employment if the farm operator or crew leader:

(a) Paid twenty thousand dollars or more as remuneration to individuals employed in agricultural labor during any calendar quarter in the current or preceding calendar year; or

(b) Employed ten or more individuals in agricultural labor for some portion of the day in each of twenty different calendar weeks in either the current or preceding calendar year regardless of whether they were employed at the same moment of time or whether or not the weeks were consecutive.

(2) A farm operator is the owner or tenant of the farm-lands who stands to gain or lose economically from the operations of the farm. Employment will be considered employment by the farm operator unless it is established to the satisfaction of the commissioner that the services were performed in the employ of a crew leader. The risk of nonpersuasion is

upon the farm operator. The operator will nonetheless be liable for contributions under RCW 50.24.130 even though services performed on the operator's farmlands would not be sufficient to bring the services under the term employment if services performed on the operator's land in the employ of a crew leader would be covered and the crew leader has failed to pay contributions on the services. For the purposes of the preceding sentence and RCW 50.24.130, all moneys paid or payable to the crew leader by the farm operator shall be deemed paid for services unless there is a written contract clearly specifying the amounts of money to be attributed to items other than services of the crew leader or the crew leader's employees.

(3) For the purposes of this section, a crew leader is a person who furnishes individuals to perform services in agricultural labor for the benefit of any other person, who pays for the services performed in agricultural labor (either on his or her own behalf or on behalf of the other person), and who has not made a written agreement making himself or herself an employee of the other person: PROVIDED, That no person shall be deemed a crew leader unless he or she is established independently of the person for whom the services are performed and either has a valid certificate of registration under the farm labor contractor registration act of 1963 or substantially all the members of his or her crew operate or maintain tractors, mechanized harvesting or crop dusting equipment, or any other mechanized equipment which is provided by the crew leader. [1977 ex.s. c 292 § 3.]

Additional notes found at www.leg.wa.gov

50.04.160 Employment—Domestic service. Services performed in domestic service in a private home, local college club, or local chapter of a college fraternity or sorority shall not be considered services in employment unless the services are performed after December 31, 1977, for a person who paid remuneration of one thousand dollars or more to individuals employed in this domestic service in any calendar quarter in the current or the preceding calendar year. The terms local college club and local chapter of a college fraternity or sorority shall not be deemed to include alumni clubs or chapters. [1977 ex.s. c 292 § 4; 1947 c 215 § 4; 1945 c 35 § 17; Rem. Supp. 1947 § 9998-156. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.165 Employment—Corporate officers—Election of coverage—Notification. Services performed by a person appointed as an officer of a corporation under RCW 23B.08.400, other than those covered by chapters 50.44 and 50.50 RCW, shall not be considered services in employment. However, a corporation may elect to cover not less than all of its corporate officers under RCW 50.24.160. If an employer does not elect to cover its corporate officers under RCW 50.24.160, the employer must notify its corporate officers in writing that they are ineligible for unemployment benefits. However, if the employer fails to provide notice, the individual's status as a corporate officer is unchanged and the person remains ineligible for unemployment benefits. [2013 c 250 § 2; 2007 c 146 § 4; 1993 c 290 § 2; 1993 c 58 § 1; 1991 c 72 § 57; 1986 c 110 § 1; 1983 1st ex.s. c 23 § 4; 1981 c 35 § 13.]

(2019 Ed.)

Conflict with federal requirements—Effective date—2013 c 250: See notes following RCW 50.12.070.

Additional notes found at www.leg.wa.gov

50.04.170 Employment—Maritime service—Exceptions. (1)(a) Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" includes an individual's entire service as an officer or member of a crew of an American vessel wherever performed and whether in intrastate or interstate or foreign commerce, if the employer maintains within this state at the beginning of the pay period an operating office from which the operations of the vessel are ordinarily and regularly supervised, managed, directed, and controlled.

(b) The term "employment" does not include:

(i) Services performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of the boat under which:

(A) The individual does not receive any cash remuneration except as provided in (b)(i)(B) and (C) of this subsection;

(B) The individual receives a share of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of the catch; and

(C) The amount of the individual's share depends on the amount of the boat's, or the boats' in the case of a fishing operation involving more than one boat, catch of fish or other forms of aquatic animal life, but only if the operating crew of the boat, or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat, is normally made up of fewer than ten individuals.

(ii) Services performed as an officer or member of the crew of a vessel not an American vessel and services on or in connection with an American vessel under a contract of service which is not entered into within the United States and during the performance of which the vessel does not touch at a port of the United States.

(2) For the purposes of this section, "American vessel" means any vessel documented or numbered under the laws of the United States, and includes any vessel which is neither documented or numbered under the laws of the United States nor documented under the laws of any foreign country if its crew is employed solely by one or more citizens or residents of the United States or corporations organized under the laws of the United States or of any state. [2013 c 75 § 2; 1949 c 214 § 3; 1947 c 215 § 5; 1945 c 35 § 18; Rem. Supp. 1949 § 9998-157. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Conflict with federal requirements—2013 c 75: See note following RCW 50.24.160.

50.04.180 Family employment. The term "employment" shall not include service performed by an individual in the employ of his or her spouse, nor shall it include service performed by an unmarried individual under the age of eighteen years in the employ of his or her parent or stepparent. [1973 c 73 § 2; 1951 c 265 § 6; 1945 c 35 § 19; Rem. Supp. 1945 § 9998-158. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.205 Services performed by aliens. Except as provided in RCW 50.04.206, services performed by aliens legally or illegally admitted to the United States shall be considered services in employment subject to the payment of contributions to the extent that services by citizens are covered. [1990 c 245 § 2; 1977 ex.s. c 292 § 5.]

Additional notes found at www.leg.wa.gov

50.04.206 Employment—Nonresident alien. The term "employment" shall not include service that is performed by a nonresident alien for the period he or she is temporarily present in the United States as a nonimmigrant under subparagraph (F), (H)(ii), (H)(iii), or (J) of section 101(a)(15) of the federal immigration and naturalization act, as amended, and that is performed to carry out the purpose specified in the applicable subparagraph of the federal immigration and naturalization act. [2006 c 13 § 22. Prior: 2003 2nd sp.s. c 4 § 27; 1990 c 245 § 3.]

Additional notes found at www.leg.wa.gov

50.04.210 Employment—Foreign governmental service. The term "employment" shall not include service performed in the employ of any other state or its political subdivisions, or of the United States government, or of any instrumentality of any other state or states or their political subdivisions, or the United States; except that if the congress of the United States shall permit states to require any instrumentality of the United States to make payments into an unemployment fund under a state unemployment compensation act, then, to the extent permitted by congress, and from and after the date when such permission becomes effective all the provisions of this title shall be applicable to such instrumentalities and to services performed for such instrumentalities in the same manner, to the same extent and on the same terms as to all other employers, employing units, individuals and services: PROVIDED, That if this state should not be certified by the social security board under section 903 of the social security act, as amended, for any year, then the payment required of such instrumentalities with respect to such year shall be deemed to be erroneously collected and shall be refunded by the commissioner from the fund in accordance with the provisions of this title relating to adjustments and refunds of contributions, interest, or penalties which have been paid. [1983 1st ex.s. c 23 § 5; 1945 c 35 § 22; Rem. Supp. 1945 § 9998-161. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.220 Employment—Service covered by federal act. The term "employment" shall not include service with respect to which unemployment compensation is payable under an unemployment compensation system established by an act of congress: PROVIDED, That the commissioner is hereby authorized to enter into agreements with the proper agencies under such act of congress, which agreements shall become effective ten days after publication thereof in the manner provided in this title for publication of general rules, to provide reciprocal treatment to individuals who have, after acquiring potential rights to benefits under this title, acquired right to unemployment compensation under such act of congress, or who have, after acquiring potential rights to unem-

ployment compensation under such act of congress, acquired rights to benefits under this title. [1945 c 35 § 23; Rem. Supp. 1945 § 9998-162. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

50.04.223 Employment—Massage therapist. The term "employment" does not include services performed by a massage therapist licensed under chapter 18.108 RCW in a massage business if the use of the business facilities is contingent upon compensation to the owner of the business facilities and the person receives no compensation from the owner for the services performed.

This exemption does not include services performed by a massage therapist for an employer under chapter 50.44 RCW. [2016 c 41 § 26; 1994 c 3 § 2; 1993 c 167 § 1.]

Effective date—2016 c 41: See note following RCW 18.108.010.

Additional notes found at www.leg.wa.gov

50.04.225 Employment—Barber and cosmetology services. The term "employment" does not include services performed in a barber shop or cosmetology shop by persons licensed under chapter 18.16 RCW if the person is a booth renter as defined in *RCW 18.16.020. [1991 c 324 § 17; 1985 c 7 § 117; 1982 1st ex.s. c 18 § 20.]

***Reviser's note:** RCW 18.16.020 was amended by 2002 c 111 § 2, deleting the definition of "booth renter."

Additional notes found at www.leg.wa.gov

50.04.230 Employment—Services of insurance agent, broker, or solicitor, real estate broker or real estate salesperson, and investment company agent or solicitor. The term "employment" shall not include service performed by an insurance agent, insurance broker, or insurance solicitor or a real estate broker or a real estate salesperson to the extent he or she is compensated by commission and service performed by an investment company agent or solicitor to the extent he or she is compensated by commission. The term "investment company", as used in this section is to be construed as meaning an investment company as defined in the act of congress entitled "Investment Company Act of 1940." [2010 c 8 § 13003; 1991 c 246 § 7; 1947 c 5 § 24; 1945 c 35 § 24; Rem. Supp. 1947 § 9998-162a.]

Additional notes found at www.leg.wa.gov

50.04.232 Employment—Travel services. The term "employment" shall not include service performed by an outside agent who sells or arranges for travel services that are provided to a travel agent as defined and registered under RCW 19.138.021, to the extent the outside agent is compensated by commission. [1995 c 242 § 1.]

Additional notes found at www.leg.wa.gov

50.04.235 Employment—Outside salesperson paid by commission. The term "employment" shall not include services as an outside salesperson of merchandise paid solely by way of commission; and such services must have been performed outside of all the places of business of the enterprises for which such services are performed only. [2010 c 8 § 13004; 1957 c 181 § 1.]

50.04.240 Employment—Newspaper vendor, carrier, or delivery person. The term "employment" shall not include services performed by a newspaper vendor, carrier, or delivery person selling or distributing newspapers on the street, to offices, to businesses, or from house to house and any freelance news correspondent or "stringer" who, using his or her own equipment, chooses to submit material for publication for free or a fee when such material is published. [2013 c 141 § 2; 2007 c 218 § 85; 1945 c 35 § 25; Rem. Supp. 1945 § 9998-163. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Intent—Finding—2007 c 218: See note following RCW 1.08.130.

50.04.245 Employment—Services performed for temporary services agency, employee leasing agency, or services referral agency—Amateur sports officials—Definitions. (1) Subject to the other provisions of this title, personal services performed for, or for the benefit of, a third party pursuant to a contract with a temporary staffing services company or services referral agency constitutes employment for the temporary staffing services company or services referral agency when the agency is responsible, under contract or in fact, for the payment of wages in remuneration for the services performed.

(2) The temporary staffing services company or services referral agency is considered the employer as defined in RCW 50.04.080.

(3) Services performed by amateur sports officials, on a contest-by-contest basis, for interscholastic and youth or adult recreational sports contests are not considered employment for a services referral agency if the agency is not responsible for payment to the amateur sports officials unless and until the agency is paid or reimbursed by a third party.

(4) For the purposes of this section:

(a) "Temporary staffing services company" means an individual or entity that engages in: Recruiting and hiring its own employees; finding other organizations that need the services of those employees; and assigning those employees on a temporary basis to perform work at or services for a client to support or supplement the client's workforces, or to provide assistance in special work situations, such as employee absences, skill shortages, and seasonal workloads, or to perform special assignments or projects, all under the direction and supervision of the client. "Temporary staffing services company" does not include professional employer organizations as defined in RCW 50.04.298, permanent employee leasing, or permanent employee placement services.

(b) "Services referral agency" means an individual or entity other than a professional employer organization as defined in RCW 50.04.298 that is engaged in the business of offering the services of one or more individuals to perform specific tasks for a third party.

(c) "Amateur sports official" means any person who serves as a neutral participant in any sports contest where the players are not compensated including, but not limited to, an umpire, referee, judge, linesperson, scorekeeper, timekeeper, or organizer. [2011 c 264 § 1; 2007 c 146 § 14; 1995 c 120 § 1.]

Additional notes found at www.leg.wa.gov

(2019 Ed.)

50.04.246 Employment—Amateur sports officials. Except for services subject to RCW 50.44.010, 50.44.020, 50.44.030, or 50.50.010, the term "employment" shall not include services performed by amateur sports officials, on a contest-by-contest basis, for interscholastic and youth or adult recreational sports contests. For purposes of this section, "amateur sports official" means any person who serves as a neutral participant in any sports contest where the players are not compensated, including but not limited to, an umpire, referee, judge, linesperson, scorekeeper, timekeeper, or organizer, and who is not otherwise employed by the sponsor of the sports contest. [2011 c 264 § 2.]

50.04.248 Employment—Third-party payer. (1) Subject to the other provisions of this title, personal services performed for, or for the benefit of, an employer who utilizes a third-party payer constitutes employment for the employer. The third-party payer is not considered the employer as defined in RCW 50.04.080.

(2) For purposes of this section, "third-party payer" means an individual or entity that enters into an agreement with one or more employers to provide administrative, human resource, or payroll administration services, but does not provide an employment or coemployment relationship. Temporary staffing services companies, services referral agencies, professional employer organizations, and labor organizations are not third-party payers. [2007 c 146 § 15.]

Additional notes found at www.leg.wa.gov

50.04.255 Employment—Appraisal practitioner services. The term "employment" does not include services performed by an appraisal practitioner certified or licensed under chapter 18.140 RCW in an appraisal business if the use of the business facilities is contingent upon compensation to the owner of the business facilities and the person receives no compensation from the owner for the services performed. This exemption does not include services performed by an appraisal practitioner certified or licensed under chapter 18.140 RCW for an employer under chapter 50.44 RCW. [1996 c 182 § 14.]

Additional notes found at www.leg.wa.gov

50.04.265 Employment—Indian tribes. The term "employment" includes services performed in the employ of an Indian tribe as provided in RCW 50.50.010. [2001 1st sp.s. c 11 § 2.]

Additional notes found at www.leg.wa.gov

50.04.270 Employment—Casual labor. The term "employment" shall not include casual labor not in the course of the employer's trade or business (labor which does not promote or advance the trade or business of the employer). Temporary labor in the usual course of an employer's trade or business or domestic services as defined in RCW 50.04.160 shall not be deemed to be casual labor. [1977 ex.s. c 292 § 7; 1945 c 35 § 28; Rem. Supp. 1945 § 9998-166. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.275 Employment—Small performing arts. The term "employment" shall not include services performed by a person who is participating in a performance sponsored by an employer whose North American industry classification system code is within "711110," "711120," "711130," or "712110," so long as the person receives no remuneration other than a nominal stipend and the employer does not have more than three individuals in its employ during any portion of a day during the calendar year.

For purposes of this section, "stipend" means a fixed sum of money paid periodically to defray expenses. The stipend is presumed to defray the person's incidental expenses involved in participating in the performance, including, but not limited to, meals, transportation, lodging, costumes, supplies, and child care. [2007 c 366 § 1.]

50.04.280 Employment—"Pay period" determination. If the services performed during one-half or more of any pay period by an individual for an employing unit constitute employment, all of the services of such individual for such period shall be deemed to be employment, but if the services performed during more than one-half of any such pay period by an individual for an employing unit do not constitute employment, then none of the services of such individual on behalf of such employing unit for such period shall be deemed to be employment. As used in this paragraph, the term "pay period" means a period of not more than thirty-one consecutive days for which a payment of remuneration is ordinarily made to an individual by the employing unit. [1945 c 35 § 29; Rem. Supp. 1945 § 9998-167. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

50.04.290 Employment office. "Employment office" means a free public employment office, or branch thereof, operated by this or any other state as a part of a state controlled system of public employment offices, or by a federal agency or any agency of a foreign government charged with the administration of an unemployment compensation program or free public employment offices. All claims for unemployment compensation benefits, registrations for employment, and all job or placement referrals received or made by any of the employment offices as above defined and pursuant to regulation of the commissioner subsequent to December 31, 1941, are hereby declared in all respects to be valid. The commissioner is authorized to make such investigation, secure and transmit such information, make available such services and facilities and exercise such of the other powers provided herein with respect to the administration of this title as he or she deems necessary or appropriate to facilitate the administration of any state or federal unemployment compensation or public employment service law and in like manner to accept and utilize information, services, and facilities made available to the state by the agency charged with the administration of any such unemployment compensation or public employment service law. Any such action taken by the commissioner subsequent to December 31, 1941, is hereby declared to be in all respects valid. [2010 c 8 § 13005; 1945 c 35 § 30; Rem. Supp. 1945 § 9998-168. Prior: 1943 c 127 § 13; 1941 c 253 § 14.]

50.04.293 Misconduct. With respect to claims that have an effective date before January 4, 2004, "misconduct" means an employee's act or failure to act in willful disregard of his or her employer's interest where the effect of the employee's act or failure to act is to harm the employer's business. [2006 c 13 § 8. Prior: 2003 2nd sp.s. c 4 § 5; 1993 c 483 § 1.]

Additional notes found at www.leg.wa.gov

50.04.294 Misconduct—Gross misconduct. With respect to claims that have an effective date on or after January 4, 2004:

(1) "Misconduct" includes, but is not limited to, the following conduct by a claimant:

(a) Willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee;

(b) Deliberate violations or disregard of standards of behavior which the employer has the right to expect of an employee;

(c) Carelessness or negligence that causes or would likely cause serious bodily harm to the employer or a fellow employee; or

(d) Carelessness or negligence of such degree or recurrence to show an intentional or substantial disregard of the employer's interest.

(2) The following acts are considered misconduct because the acts signify a willful or wanton disregard of the rights, title, and interests of the employer or a fellow employee. These acts include, but are not limited to:

(a) Insubordination showing a deliberate, willful, or purposeful refusal to follow the reasonable directions or instructions of the employer;

(b) Repeated inexcusable tardiness following warnings by the employer;

(c) Dishonesty related to employment, including but not limited to deliberate falsification of company records, theft, deliberate deception, or lying;

(d) Repeated and inexcusable absences, including absences for which the employee was able to give advance notice and failed to do so;

(e) Deliberate acts that are illegal, provoke violence or violation of laws, or violate the collective bargaining agreement. However, an employee who engages in lawful union activity may not be disqualified due to misconduct;

(f) Violation of a company rule if the rule is reasonable and if the claimant knew or should have known of the existence of the rule; or

(g) Violations of law by the claimant while acting within the scope of employment that substantially affect the claimant's job performance or that substantially harm the employer's ability to do business.

(3) "Misconduct" does not include:

(a) Inefficiency, unsatisfactory conduct, or failure to perform well as the result of inability or incapacity;

(b) Inadvertence or ordinary negligence in isolated instances; or

(c) Good faith errors in judgment or discretion.

(4) "Gross misconduct" means a criminal act in connection with an individual's work for which the individual has been convicted in a criminal court, or has admitted committing, or conduct connected with the individual's work that

demonstrates a flagrant and wanton disregard of and for the rights, title, or interest of the employer or a fellow employee. [2006 c 13 § 9. Prior: 2003 2nd sp.s. c 4 § 6.]

Additional notes found at www.leg.wa.gov

50.04.295 Payments in lieu of contributions. "Payments in lieu of contributions" means money payments due to the state unemployment compensation fund as provided in RCW 50.44.060. [1971 c 3 § 2.]

Additional notes found at www.leg.wa.gov

50.04.298 Professional employer organizations—Coemployment—Covered employee. For the purposes of this title:

(1) "Professional employer organization" means a person or entity that enters into an agreement with one or more client employers to provide professional employer services. "Professional employer organization" includes entities that use the term "staff leasing company," "permanent leasing company," "registered staff leasing company," "employee leasing company," "administrative employer," or any other name, when they provide professional employer services to client employers. The following are not classified as professional employer organizations: Independent contractors in RCW 50.04.140; temporary staffing services companies and services referral agencies as defined in RCW 50.04.245; third-party payers as defined in RCW 50.04.248; or labor organizations.

(2) "Client employer" means any employer who enters into a professional employer agreement with a professional employer organization.

(3) "Coemployer" means either a professional employer organization or a client employer that has entered into a professional employer agreement.

(4) "Covered employee" means an individual performing services for a client employer that constitutes employment under this title.

(5) "Professional employer services" means services provided by the professional employer organization to the client employer, which include, but are not limited to, human resource functions, risk management, or payroll administration services, in a coemployment relationship.

(6) "Coemployment relationship" means a relationship that is intended to be ongoing rather than temporary or project-specific, where the rights, duties, and obligations of an employer in an employment relationship are allocated between coemployers pursuant to a professional employer agreement and state law. A coemployment relationship exists only if a majority of the employees performing services to a client employer, or to a division or work unit of a client employer, are covered employees. In determining the allocation of rights and obligations in a coemployment relationship:

(a) The professional employer organization has only those employer rights and is subject only to those obligations specifically allocated to it by the professional employer agreement or state law;

(b) The client employer has those rights and obligations allocated to it by the professional employer agreement or state law, as well as any other right or obligation of an employer that is not specifically allocated by the professional employer agreement or state law.

(2019 Ed.)

(7) "Professional employer agreement" means a written contract between a client employer and a professional employer organization that provides for: (a) The coemployment of covered employees; and (b) the allocation of employer rights and obligations between the client and the professional employer organization with respect to the covered employees. [2007 c 146 § 8.]

Additional notes found at www.leg.wa.gov

50.04.300 State. "State" includes, in addition to the states of the United States of America, the District of Columbia, the Virgin Islands, and the Commonwealth of Puerto Rico. [1977 ex.s. c 292 § 8; 1971 c 3 § 10; 1945 c 35 § 31; Rem. Supp. 1945 § 9998-169. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.310 Unemployed individual—Individual not unemployed—Unemployed corporate officer—Corporate officer not unemployed. (1) An individual:

(a) Is "unemployed" in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual, or in any week of less than full time work, if the remuneration payable to the individual with respect to such week is less than one and one-third times the individual's weekly benefit amount plus five dollars. The commissioner shall prescribe regulations applicable to unemployed individuals making such distinctions in the procedures as to such types of unemployment as the commissioner deems necessary.

(b) Is not "unemployed" in any week which falls totally within a period during which the individual, pursuant to a collective bargaining agreement or individual employment contract, is employed full time in accordance with a definition of full time contained in the agreement or contract, and for which compensation for full time work is payable. This subsection may not be applied retroactively to an individual who had no guarantee of work at the start of such period and subsequently is provided additional work by the employer.

(2)(a) An officer of a corporation who owns ten percent or more of the outstanding stock of the corporation, or a corporate officer who is a family member of an officer who owns ten percent or more of the outstanding stock of the corporation, whose claim for benefits is based on any wages with that corporation:

(i) Is not "unemployed" in any week during the individual's term of office or ownership in the corporation, even if wages are not being paid, unless the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(ii) Is "unemployed" in any week upon dissolution of the corporation or if the officer permanently resigns or is permanently removed from their appointment and responsibilities with that corporation in accordance with its articles of incorporation or bylaws or if the corporate officer's covered base year wages with that corporation are less than twenty-five percent of his or her total covered base year wages.

(b) As used in this subsection (2), "family member" means persons who are members of a family by blood or marriage as parents, stepparents, grandparents, spouses, children,

brothers, sisters, stepchildren, adopted children, or grandchildren. [2013 c 66 § 1; 2007 c 146 § 5; 1984 c 134 § 1; 1973 2nd ex.s. c 7 § 1; 1945 c 35 § 32; Rem. Supp. 1945 § 9998-170. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1939 c 162 § 19.]

Effective date—2013 c 66: "This act takes effect December 29, 2013." [2013 c 66 § 4.]

Conflict with federal requirements—2013 c 66: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 66 § 2.]

Additional notes found at www.leg.wa.gov

50.04.320 Wages, remuneration. (1) For the purpose of payment of contributions, "wages" means the remuneration paid by one employer during any calendar year to an individual in its employment under this title or the unemployment compensation law of any other state in the amount specified in RCW 50.24.010. If an employer (hereinafter referred to as a successor employer) during any calendar year acquires substantially all the operating assets of another employer (hereinafter referred to as a predecessor employer) or assets used in a separate unit of a trade or business of a predecessor employer, and immediately after the acquisition employs in the individual's trade or business an individual who immediately before the acquisition was employed in the trade or business of the predecessor employer, then, for the purposes of determining the amount of remuneration paid by the successor employer to the individual during the calendar year which is subject to contributions, any remuneration paid to the individual by the predecessor employer during that calendar year and before the acquisition shall be considered as having been paid by the successor employer.

(2) For the purpose of payment of benefits, "wages" means the remuneration paid by one or more employers to an individual for employment under this title during his or her base year: PROVIDED, That at the request of a claimant, wages may be calculated on the basis of remuneration payable. The department shall notify each claimant that wages are calculated on the basis of remuneration paid, but at the claimant's request a redetermination may be performed and based on remuneration payable.

(3) For the purpose of payment of benefits and payment of contributions, the term "wages" includes tips which are received after January 1, 1987, while performing services which constitute employment, and which are reported to the employer for federal income tax purposes.

(4)(a) "Remuneration" means all compensation paid for personal services including commissions and bonuses and the cash value of all compensation paid in any medium other than cash. The reasonable cash value of compensation paid in any medium other than cash and the reasonable value of gratuities shall be estimated and determined in accordance with rules prescribed by the commissioner. Remuneration does not include payments to members of a reserve component of the armed forces of the United States, including the organized

militia of the state of Washington, for the performance of duty for periods not exceeding seventy-two hours at a time.

(b) Previously accrued compensation, other than severance pay or payments received pursuant to plant closure agreements, when assigned to a specific period of time by virtue of a collective bargaining agreement, individual employment contract, customary trade practice, or request of the individual compensated, shall be considered remuneration for the period to which it is assigned. Assignment clearly occurs when the compensation serves to make the individual eligible for all regular fringe benefits for the period to which the compensation is assigned.

(c) Settlements or other proceeds received by an individual as a result of a negotiated settlement for termination of an individual written employment contract prior to its expiration date shall be considered remuneration. The proceeds shall be deemed assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract.

(d) Except as provided in (c) of this subsection, the provisions of this subsection (4) pertaining to the assignment of previously accrued compensation shall not apply to individuals subject to RCW 50.44.050. [2010 c 8 § 13006; 1998 c 162 § 1; 1995 c 296 § 1; 1986 c 21 § 1; 1984 c 134 § 2; 1983 1st ex.s. c 23 § 6; 1983 c 67 § 1; 1970 ex.s. c 2 § 3; 1953 ex.s. c 8 § 2; 1951 c 265 § 3; 1949 c 214 § 4; 1947 c 215 § 6; 1945 c 35 § 33; Rem. Supp. 1949 § 9998-171. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.323 Wages, remuneration—Government or private retirement pension plan payments—Effect upon eligibility—Reduction in benefits. (1) The amount of benefits payable to an individual for any week which begins after October 3, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced (but not below zero) by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week. However:

(a) The requirements of this subsection shall apply to any pension, retirement or retired pay, annuity, or other similar periodic payment only if—

(i) Such pension, retirement or retired pay, annuity, or similar payment is under a plan maintained (or contributed to) by a base period employer; and

(ii) In the case of such a payment not made under the Social Security Act or the Railroad Retirement Act of 1974 (or corresponding provisions of prior law), services performed for such employer by the individual after the beginning of the base period (or remuneration for such services) affect eligibility for, or increase the amount of, such pension, retirement or retired pay, annuity, or similar payment;

(b) The amount of any such a reduction shall take into account contributions made by the individual for the pension, retirement or retired pay, annuity, or other similar periodic payment, in accordance with regulations prescribed by the commissioner; and

(c) No deduction shall be made from the amount of benefits payable for a week for individuals receiving federal social security pensions to take into account the individuals' contributions to the pension program.

(2) In the event that a retroactive pension or retirement payment covers a period in which an individual received benefits under the provisions of this title, the amount in excess of the amount to which such individual would have been entitled had such retirement or pension payment been considered as provided in this section shall be recoverable under RCW 50.20.190.

(3) A lump sum payment accumulated in a plan described in this section paid to an individual eligible for such payment shall be prorated over the life expectancy of the individual computed in accordance with the commissioner's regulation.

(4) The resulting weekly benefit amount payable after reduction under this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar.

(5) Any ambiguity in subsection (1) of this section should be construed in a manner consistent with 26 U.S.C. Sec. 3304 (a)(15) as last amended by P.L. 96-364. [1993 c 483 § 2; 1983 1st ex.s. c 23 § 7; 1981 c 35 § 1; 1980 c 74 § 1; 1973 2nd ex.s. c 7 § 2; 1973 1st ex.s. c 167 § 1; 1970 ex.s. c 2 § 19.]

Additional notes found at www.leg.wa.gov

50.04.330 Wages, remuneration—Retirement and disability payments excepted. Prior to January 1, 1951, the term "wages" shall not include the amount of any payment by an employing unit for or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of retirement, sickness or accident disability, or medical and hospitalization expenses in connection with sickness or accident disability. After December 31, 1950, the term "wages" shall not include:

(1) The amount of any payment made (including any amount paid by an employing unit for insurance or annuities, or into a fund to provide for any such payment), to, or on behalf of, an individual or any of his or her dependents under a plan or system established by an employing unit which makes provision generally for individuals performing service for it (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (a) retirement, or (b) sickness or accident disability, or (c) medical or hospitalization expenses in connection with sickness or accident disability, or (d) death;

(2) The amount of any payment by an employing unit to an individual performing service for it (including any amount paid by an employing unit for insurance or annuities, or into a fund, to provide for any such payment) on account of retirement;

(3) The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employing unit to, or on behalf of, an individual performing

services for it after the expiration of six calendar months following the last calendar month in which the individual performed services for such employing unit;

(4) The amount of any payment made by an employing unit to, or on behalf of, an individual performing services for it or his or her beneficiary (a) from or to a trust exempt from tax under section 165(a) of the federal internal revenue code at the time of such payment unless such payment is made to an individual performing services for the trust as remuneration for such services and not as a beneficiary of the trust, or (b) under or to an annuity plan which, at the time of such payments, meets the requirements of section 165(a)(3), (4), (5), and (6) of the federal internal revenue code; or

(5) The amount of any payment (other than vacation or sick pay) made to an individual after the month in which he or she attains the age of sixty-five, if he or she did not perform services for the employing unit in the period for which such payment is made. [2010 c 8 § 13007; 1951 c 265 § 4; 1949 c 214 § 5; 1945 c 35 § 34; Rem. Supp. 1949 § 9998-173. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

Additional notes found at www.leg.wa.gov

50.04.335 Wages, remuneration—Stock transfers excepted. After December 31, 2003, for the purpose of the payment of contributions, the term "wages" does not include an employee's income attributable to the transfer of shares of stock to the employee pursuant to his or her exercise of a stock option granted for any reason connected with his or her employment. [2006 c 13 § 17. Prior: 2003 2nd sp.s. c 4 § 2.]

Additional notes found at www.leg.wa.gov

50.04.340 Wages, remuneration—Death benefits excepted. Prior to January 1, 1951, the term "wages" shall not include the amount of any payment by an employing unit for or on behalf of an individual in its employ under a plan or system established by such employing unit which makes provision for individuals in its employ generally, or for a class or classes of such individuals (including any amount paid by an employing unit for insurance or annuities or into a fund to provide for any payment) on account of death, provided the individual in its employ

(1) has not the option to receive instead of provisions for such death benefits, any part of such payment, or, if such death benefit is insured, any part of the premium (or contributions to premiums) paid by his or her employing unit; and

(2) has not the right under the provisions of the plan or system or policy of insurance providing for such death benefits to assign such benefits or to receive a cash consideration in lieu of such benefits, either upon his or her withdrawal from the plan or system providing for such benefits or upon termination of such plan or system or policy of insurance or of his or her services with such employing unit. [2010 c 8 § 13008; 1951 c 265 § 5; 1949 c 214 § 6; 1945 c 35 § 35; Rem. Supp. 1949 § 9998-173. Prior: 1943 c 127 § 13; 1941 c 253 § 14.]

Additional notes found at www.leg.wa.gov

50.04.350 Wages, remuneration—Excepted payments. The term "wages" shall not include the payment by an employing unit (without deduction from the remuneration

of the individual in its employ) of the tax imposed upon an individual in employment under section 1400 of the federal internal revenue code, as amended, or any amount paid to a person in the military service for any pay period during which he or she performs no service for the employer: PROVIDED, HOWEVER, That prior to January 1, 1952, the term "wages" shall not include dismissal payments which an employing unit is not legally required to make. [2010 c 8 § 13009; 1951 c 265 § 2; 1945 c 35 § 36; Rem. Supp. 1945 § 9998-174. Prior: 1943 c 127 § 13; 1941 c 253 § 14.]

Additional notes found at www.leg.wa.gov

50.04.355 Wages, remuneration—Average annual wage—Average weekly wage—Average annual wage for contributions purposes. (1) For computations made before January 1, 2007, the employment security department shall compute, on or before the fifteenth day of June of each year, an "average annual wage", an "average weekly wage", and an "average annual wage for contributions purposes" from information for the specified preceding calendar years including corrections thereof reported within three months after the close of the final year of the specified years by all employers as defined in RCW 50.04.080.

(a) The "average annual wage" is the quotient derived by dividing the total remuneration reported by all employers for the preceding calendar year by the average number of workers reported for all months of the preceding calendar year and if the result is not a multiple of one dollar, rounding the result to the next lower multiple of one dollar.

(b) The "average weekly wage" is the quotient derived by dividing the "average annual wage" obtained under (a) of this subsection 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.

(c) The "average annual wage for contributions purposes" is the quotient derived by dividing by three the total remuneration reported by all employers subject to contributions for the preceding three consecutive calendar years and dividing this amount by the average number of workers reported for all months of these three years 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.

(2) For computations made on or after January 1, 2007, the employment security department shall compute, on or before the fifteenth day of June of each year, an "average annual wage," an "average weekly wage," and an "average annual wage for contributions purposes" 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.

(a) The "average annual wage" is the quotient derived by dividing the 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.

(b) The "average weekly wage" is the quotient derived by dividing the "average annual wage" obtained under (a) of this subsection 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.

(c) The "average annual wage for contributions purposes" is the quotient derived by dividing the 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. [2003 2nd sp.s. c 4 § 15; 2000 c 2 § 1; 1977 ex.s. c 33 § 2; 1975 1st ex.s. c 228 § 1; 1973 c 73 § 3; 1970 ex.s. c 2 § 6.]

Additional notes found at www.leg.wa.gov

50.04.360 Week. "Week" means any period of seven consecutive calendar days ending at midnight as the commissioner may by regulation prescribe. [1945 c 35 § 37; Rem. Supp. 1945 § 9998-175. Prior: 1943 c 127 § 13; 1941 c 253 § 14; 1939 c 214 § 16; 1937 c 162 § 19.]

50.04.900 Construction—Title applicable to state registered domestic partnerships—2009 c 521. For the purposes of this title, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships. [2009 c 521 § 137.]

Chapter 50.06 RCW TEMPORARY TOTAL DISABILITY

Sections

50.06.020	Allowable beneficiaries.
50.06.030	Application for initial determination of disability—Special base year—Special individual benefit year.
50.06.040	Laws and regulations governing amounts payable and right to benefits.
50.06.050	Use of wages and time worked for prior claims—Effect.
50.06.900	Application of chapter—Recipients of industrial insurance or crime victims compensation.
50.06.910	Partial invalidity of chapter.

50.06.020 Allowable beneficiaries. The benefits of this chapter shall be allowed only to:

(1) Individuals who have suffered a temporary total disability and have received compensation under the industrial insurance or crime victims compensation 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; or

(2) Individuals who are reentering the workforce after an absence of not less than thirteen consecutive calendar weeks resulting from temporary total physical disability because of a nonwork-related injury or illness: PROVIDED, That individuals authorized to receive benefits under this subsection are required to meet other eligibility requirements under Title 50 RCW. [1993 c 483 § 4; 1984 c 65 § 2; 1975 1st ex.s. c 228 § 8.]

Additional notes found at www.leg.wa.gov

50.06.030 Application for initial determination of disability—Special base year—Special individual benefit year. (1) In the case of individuals eligible under RCW 50.06.020(1), an application for initial determination made pursuant to this chapter, to be considered timely, must be filed in accordance with RCW 50.20.140 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.

(2) In the case of individuals eligible under RCW 50.06.020(2), an application for initial determination must be filed in accordance with RCW 50.20.140 within twenty-six weeks following the week in which the period of temporary total physical disability commenced. This filing requirement is satisfied by filing a signed statement from the attending physician stating the date that the disability commenced and stating that the individual was unable to reenter the workforce during the time of the disability. The department may examine any medical information related to the disability. If the claim is appealed, a base year employer may examine the medical information related to the disability and require, at the employer's expense, that the individual obtain the opinion of a second health care provider selected by the employer concerning any information related to the disability.

(3) The employment security department shall process and issue an initial determination of entitlement or nonentitlement as the case may be.

(4) For the purpose of this chapter, a special base year is established for an individual consisting of either the first four of the last five completed calendar quarters or the last four 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 or her final temporary total disability compensation under the applicable industrial insurance or crime victims compensation laws, or the week in which the individual reentered the workforce after an absence under subsection (2) of this section, as applicable, 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 eligibility 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.

(2019 Ed.)

(5) For the purposes of establishing a benefit year, the department shall initially use the first four of the last five completed calendar quarters as the base year. If a benefit year is not established using the first four of the last five calendar quarters as the base year, the department shall use the last four completed calendar quarters as the base year. [2010 c 8 § 13010; 2002 c 73 § 1; 1993 c 483 § 5; 1987 c 278 § 3; 1984 c 65 § 3; 1975 1st ex.s. c 228 § 9.]

Additional notes found at www.leg.wa.gov

50.06.040 Laws and regulations governing amounts payable and right to benefits. 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. [1975 1st ex.s. c 228 § 10.]

Additional notes found at www.leg.wa.gov

50.06.050 Use of wages and time worked for prior claims—Effect. 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. [1975 1st ex.s. c 228 § 11.]

Additional notes found at www.leg.wa.gov

50.06.900 Application of chapter—Recipients of industrial insurance or crime victims compensation. (1) This chapter shall be available to individuals who suffer a temporary total disability, compensable by an industrial insurance program, after June 29, 1975.

(2) This chapter shall also be available to individuals who suffer a temporary total disability compensable under crime victims compensation laws, after June 7, 1984. [1984 c 65 § 4; 1975 1st ex.s. c 228 § 12.]

Additional notes found at www.leg.wa.gov

50.06.910 Partial invalidity of chapter. 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. [1975 1st ex.s. c 228 § 13.]

Additional notes found at www.leg.wa.gov

Chapter 50.08 RCW

ESTABLISHMENT OF DEPARTMENT

Sections

50.08.010	Employment security department established.
50.08.020	Divisions established.
50.08.030	Administration of family services and programs.

Centers of excellence: RCW 28B.50.902.

Labor market information and economic analysis—Duties and authority: Chapter 50.38 RCW.

Public bodies may retain collection agencies to collect public debts—Fees: RCW 19.16.500.

50.08.010 Employment security department established. There is established the employment security department for the state, to be administered by a commissioner. The commissioner shall be appointed by the governor with the consent of the senate, and shall hold office at the pleasure of, and receive such compensation for his or her services as may be fixed by, the governor. [2010 c 8 § 13011; 1953 ex.s. c 8 § 3; 1947 c 215 § 8; 1945 c 35 § 38; Rem. Supp. 1947 § 9998-176. Prior: 1939 c 12 § 1; 1937 c 162 § 12.]

50.08.020 Divisions established. 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 or her. 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.

It is hereby further provided that the governor in his or her discretion may delegate any or all of the organization, administration, and functions of the said Washington state employment service division to any federal agency. [2010 c 8 § 13012; 1973 1st ex.s. c 158 § 1; 1947 c 215 § 9; 1945 c 35 § 39; Rem. Supp. 1947 § 9998-177. Prior: 1943 c 127 § 9; 1939 c 214 § 7; 1937 c 162 § 9.]

Additional notes found at www.leg.wa.gov

50.08.030 Administration of family services and programs. The commissioner shall administer family services and programs to promote the state's policy as provided in RCW 74.14A.025. [1992 c 198 § 10.]

Chapter 50.12 RCW ADMINISTRATION

Sections

50.12.010	Commissioner's duties and powers.
50.12.020	Personnel appointed by commissioner.
50.12.031	Personnel board—Travel expenses of board.
50.12.040	Rule-making authority.
50.12.042	Rules—2003 2nd sp.s. c 4.
50.12.045	Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications.
50.12.050	Reciprocal benefit arrangements.
50.12.060	Reciprocal coverage arrangements.
50.12.070	Employing unit records, reports, and registration—Unified business identifier account number records—Penalty for failure to keep records.
50.12.072	Employer fails to register—Employer fails to obtain employment security account number—Penalties.
50.12.080	Arbitrary reports.
50.12.090	Interstate use of employing unit records.
50.12.100	Compulsory production of records and information.
50.12.120	Protection against self-incrimination.
50.12.130	Oaths and witnesses—Subpoenas—Application for court approval prior to issuance—No notice required.
50.12.140	Destruction of office records.

50.12.150	Representation by attorney general.
50.12.160	Publication of title, rules and regulations, etc.
50.12.170	Services and fees of sheriffs.
50.12.180	State-federal cooperation.
50.12.190	Employment stabilization.
50.12.200	State advisory council—Committees and councils.
50.12.210	Employment services for handicapped—Report to legislative committees.
50.12.220	Penalties for late reports or contributions—Warning—Assessment—Waiver—Appeal.
50.12.230	Job skills training program—Department's duties.
50.12.235	Washington conservation corps—Department's duties.
50.12.240	On-the-job training—Employer qualifications established by rule.
50.12.245	Cooperation with workforce training and education coordinating board.
50.12.250	Information clearinghouse to assist in employment of persons of disability.
50.12.252	Information clearinghouse—Consultation on establishment.
50.12.290	Printed materials—Department's duties.
50.12.300	Professional employer organizations—Reports and records.
50.12.310	Professional employer organizations—Revocation of authority to act as coemployer.
50.12.320	Labor market research—High-demand green industries—Middle or high-wage occupations.
50.12.330	Domestic violence employment poster.

Administration of OASI plans for members of teachers' retirement and state employees' retirement systems: Chapters 41.33, 41.41 RCW.

Merit system: Chapter 41.06 RCW.

50.12.010 Commissioner's duties and powers. (1) The commissioner shall administer this title. He or she shall have the power and authority to adopt, amend, or rescind such rules and regulations, to employ such persons, make such expenditures, require such reports, make such investigations, and take such other action as he or she deems necessary or suitable to that end. Such rules and regulations shall be effective upon publication and in the manner, not inconsistent with the provisions of this title, which the commissioner shall prescribe. The commissioner, in accordance with the provisions of this title, shall determine the organization and methods of procedure of the divisions referred to in this title, and shall have an official seal which shall be judicially noticed. The commissioner shall submit to the governor a report covering the administration and operation of this title during the preceding fiscal year, July 1st through June 30th, and shall make such recommendations for amendments to this title as he or she deems proper. Such report shall include a balance sheet of the moneys in the fund in which there shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the commissioner in accordance with accepted actuarial principles on the basis of statistics of employment, business activity, and other relevant factors for the longest possible period. Whenever the commissioner believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund, he or she shall promptly so inform the governor and legislature and make recommendations with respect thereto.

(2) There is established a unit within the department for the purpose of detection and investigation of fraud under this title. The department will employ supervisory and investigative personnel for the program, who must be qualified by training and experience.

(3) The commissioner or the commissioner's duly authorized designee is authorized to receive criminal history record information that includes nonconviction data for any purpose associated with the investigation for abuse or fraud under

chapter 50.20 RCW. Dissemination or use of nonconviction data for purposes other than that authorized in this section is prohibited. [2010 c 8 § 13013; 2008 c 74 § 5; 1977 c 75 § 75; 1955 c 286 § 1; 1949 c 214 § 7; 1945 c 35 § 40; Rem. Supp. 1949 § 9998-178. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 12 § 2.]

Finding—2008 c 74: See note following RCW 51.04.024.

50.12.020 Personnel appointed by commissioner.

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. The commissioner may delegate to any person appointed such power and authority as the commissioner deems reasonable and proper for the effective administration of this title, including the right to decide matters placed in the commissioner's discretion under this title, and may in his or her discretion bond any person handling moneys or signing checks hereunder. [1985 c 96 § 1; 1973 1st ex.s. c 158 § 2; 1945 c 35 § 41; Rem. Supp. 1945 § 9998-179. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Additional notes found at www.leg.wa.gov

50.12.031 Personnel board—Travel expenses of board. Members of the board shall be allowed travel expenses in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended while traveling to and from and attending regularly called meetings. [1975-'76 2nd ex.s. c 34 § 148; 1959 c 127 § 2.]

Additional notes found at www.leg.wa.gov

50.12.040 Rule-making authority. Permanent and emergency rules shall be adopted, amended, or repealed by the commissioner in accordance with the provisions of Title 34 RCW and the rules adopted pursuant thereto: PROVIDED, That the commissioner may not adopt rules after July 23, 1995, that are based solely on a section of law stating a statute's intent or purpose, on the enabling provisions of the statute establishing the agency, or on any combination of such provisions, for statutory authority to adopt any rule. [1995 c 403 § 109; 1973 1st ex.s. c 158 § 3; 1945 c 35 § 43; Rem. Supp. 1945 § 9998-181. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Findings—Short title—Intent—1995 c 403: See note following RCW 34.05.328.

Additional notes found at www.leg.wa.gov

50.12.042 Rules—2003 2nd sp.s. c 4. The commissioner of the employment security department may adopt such rules as are necessary to implement chapter 4, Laws of 2003 2nd sp. sess. [2003 2nd sp.s. c 4 § 34.]

Additional notes found at www.leg.wa.gov

50.12.045 Contract to issue conditional federal employer identification numbers, credentials, and documents in conjunction with license applications. The commissioner may contract with the federal internal revenue service, or other appropriate federal agency, to issue conditional

federal employer identification numbers, or other federal credentials or documents, at specified offices and locations of the agency in conjunction with any application for state licenses under chapter 19.02 RCW. [1997 c 51 § 5.]

Intent—1997 c 51: See note following RCW 19.02.300.

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

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

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

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

The commissioner is hereby authorized to make to another state and to receive from another state reimbursements from or to the unemployment compensation fund in accordance with arrangements made pursuant to the provisions of this section. [1977 ex.s. c 292 § 9; 1971 c 3 § 11; 1959 c 266 § 1; 1949 c 214 § 8; 1945 c 35 § 44; Rem. Supp. 1949 § 9998-182. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Additional notes found at www.leg.wa.gov

50.12.060 Reciprocal coverage arrangements. The commissioner is hereby authorized to enter into arrangements with the appropriate agencies of other states, foreign govern-

ments, or the federal government whereby services performed by an individual for a single employing unit for which services are customarily performed in more than one state shall be deemed to be services performed entirely within any one of the states (1) in which any part of such individual's service is performed, or (2) in which such individual has his or her residence, or (3) in which the employing unit maintains a place of business: PROVIDED, That there is in effect, as to such services, an election by the employing unit with the acquiescence of such individual, approved by the agency charged with the administration of such state's unemployment compensation law, pursuant to which all the services performed by such individual for such employing unit are deemed to be performed entirely within such state. [2010 c 8 § 13014; 1945 c 35 § 45; Rem. Supp. 1945 § 9998-183. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

50.12.070 Employing unit records, reports, and registration—Unified business identifier account number records—Penalty for failure to keep records. (1)(a) 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.

(b) An employer who contracts with another person or entity for work subject to chapter 18.27 or 19.28 RCW shall obtain and preserve a record of the unified business identifier account number for and compensation paid to the person or entity performing the work. In addition to the penalty in subsection (3) of this section, failure to obtain or maintain the record is subject to RCW 39.06.010.

(2)(a) Each employer shall register with the department and obtain an employment security account number. 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 full names and social security numbers of all such workers, and the total hours worked by each worker and such other information as the commissioner may by regulation prescribe.

(b) If the employing unit fails or has failed to report the number of hours in a reporting period for which a worker 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 hours worked, the total wages for the reporting period, as reported by the employing unit, shall be divided by the dollar amount of the state's minimum wage in effect for such reporting period and the quotient, disregarding any remainder, shall be credited to the worker: PROVIDED, That although the computation so made will not be subject to appeal by the employing unit, monetary entitlement may be redetermined upon request if the department is provided with credible evidence of the actual hours worked. Benefits paid using computed hours are not considered an overpayment and are not

subject to collections when the correction of computed hours results in an invalid or reduced claim; however:

(i) A contribution paying employer who fails to report the number of hours worked will have its experience rating account charged for all benefits paid that are based on hours computed under this subsection; and

(ii) An employer who reimburses the trust fund for benefits paid to workers and fails to report the number of hours worked shall reimburse the trust fund for all benefits paid that are based on hours computed under this subsection.

(3) Any employer who fails to keep and preserve records required by this section shall be subject to a penalty determined by the commissioner but not to exceed two hundred fifty dollars or two hundred percent of the quarterly tax for each offense, whichever is greater. [2013 c 250 § 1; 2009 c 432 § 11; 2008 c 120 § 7; 2007 c 146 § 1; 1997 c 54 § 2; 1983 1st ex.s. c 23 § 8; 1977 ex.s. c 33 § 3; 1975 1st ex.s. c 228 § 2; 1945 c 35 § 46; Rem. Supp. 1945 § 9998-184. Prior: 1943 c 127 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Conflict with federal requirements—2013 c 250: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 250 § 5.]

Effective date—2013 c 250: "This act takes effect December 29, 2013." [2013 c 250 § 7.]

Effective date—2009 c 432 § 11: "Section 11 of this act takes effect October 1, 2009." [2009 c 432 § 14.]

Report—2009 c 432: See RCW 18.27.800.

Additional notes found at www.leg.wa.gov

50.12.072 Employer fails to register—Employer fails to obtain employment security account number—Penalties. An employer that knowingly fails to register with the department and obtain an employment security account number, as required under RCW 50.12.070(2), is subject to a penalty not to exceed one thousand dollars per quarter or two times the taxes due per quarter, whichever is greater. This penalty is in addition to all other penalties and is in addition to higher rates for employers that do not meet the definition of "qualified employer" under RCW 50.29.010. This penalty does not apply if the employer can prove that it had good cause to believe that it was not required to register with the department. [2010 c 72 § 2.]

Effective date—2010 c 72 § 2: "Section 2 of this act takes effect January 1, 2011." [2010 c 72 § 5.]

Conflict with federal requirements—2010 c 72: See note following RCW 50.29.025.

50.12.080 Arbitrary reports. If any employing unit fails to make or file any report or return required by this title, or any regulation made pursuant hereto, the commissioner may, upon the basis of such knowledge as may be available to him or her, arbitrarily make a report on behalf of such employing unit and the report so made shall be deemed to be prima facie correct. In any action or proceedings brought for the recovery of contributions, interest, or penalties due upon the payroll of an employer, the certificate of the department

that an audit has been made of the payroll of such employer pursuant to the direction of the department, or a certificate that a return has been filed by or for an employer or estimated by reason of lack of a return, shall be prima facie evidence of the amount of such payroll for the period stated in the certificate. [2010 c 8 § 13015; 1983 1st ex.s. c 23 § 9; 1951 c 215 § 2; 1945 c 35 § 47; Rem. Supp. 1945 § 9998-185. Prior: 1943 c 127 § 8.]

Additional notes found at www.leg.wa.gov

50.12.090 Interstate use of employing unit records.

The records of an employer maintained in this state pertaining to employment of persons in another state shall be open to representatives of the commissioner to permit cooperation with other state unemployment compensation agencies in ascertaining information necessary to administer the unemployment compensation acts of such other states. [1945 c 35 § 48; Rem. Supp. 1945 § 9998-186.]

50.12.100 Compulsory production of records and information.

In case of contumacy or refusal to obey subpoenas issued to any person, any court of the state within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by any duly authorized representative of the commissioner, shall have jurisdiction to issue to such person an order requiring such person to appear before such authorized representative, there to produce evidence, if so ordered, or there to give testimony touching the matter under investigation, or in question. Failure to obey such order of the court may be punished by said court as a contempt thereof. [1945 c 35 § 49; Rem. Supp. 1945 § 9998-187. Prior: 1939 c 214 § 9; 1937 c 162 § 11.]

50.12.120 Protection against self-incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before any duly authorized representative of the commissioner or any appeal tribunal in obedience to the subpoena of such representative of the commissioner or such appeal tribunal, on the ground that the testimony or evidence, documentary or otherwise, required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she is compelled, after having claimed his or her privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying. [2010 c 8 § 13016; 1945 c 35 § 51; Rem. Supp. 1945 § 9998-189. Prior: 1943 c 127 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

50.12.130 Oaths and witnesses—Subpoenas—Application for court approval prior to issuance—No notice required. (1) In the discharge of the duties imposed by this title, the appeal tribunal and any duly authorized representative of the commissioner shall have power to administer oaths and affirmations, take depositions, certify to official

acts and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed to be necessary as evidence in connection with any dispute or the administration of this title. It shall be unlawful for any person, without just cause, to fail to comply with subpoenas issued pursuant to the provisions of this section.

(2)(a) Any authorized representative of the commissioner may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(i) State that an order is sought pursuant to this subsection;

(ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(c) Any authorized representative of the commissioner may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation. [2010 c 22 § 3; 1945 c 35 § 52; Rem. Supp. 1945 § 9998-190. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Findings—Intent—2010 c 22: See note following RCW 51.04.040.

50.12.140 Destruction of office records. The commissioner may destroy any form, claim, ledger, check, letter, or other record of the employment security department at the expiration of three years after such record was originated by or filed with the employment security department, except that warrants and claims, claim determination, employer liability forms and contribution reports may be destroyed at the expiration of six years after such form is originated by or filed with the employment security department, and except that this section shall not apply to records pertaining to grants, accounts or expenditures for administration, records of the unemployment compensation fund and the unemployment compensation administration fund. [1947 c 215 § 11; 1945 c 35 § 53; Rem. Supp. 1947 § 99998-191.]

Preservation and destruction of public records: Chapter 40.14 RCW.

50.12.150 Representation by attorney general. The attorney general shall be the general counsel of each and all divisions and departments under this title and it shall be his or her duty to institute and prosecute all actions and proceedings which may be necessary in the enforcement and carrying out of each, every, and all of the provisions of this title, and it shall be the duty of the attorney general to assign such assistants and attorneys as may be necessary to the exclusive duty

of assisting each, every, and all divisions and departments created under this title in the enforcement of this title. The salaries of such assistants shall be paid out of the unemployment compensation administration fund, together with their expenses fixed by the attorney general and allowed by the treasurer of the unemployment compensation administration fund when approved upon vouchers by the attorney general. [2010 c 8 § 13017; 1945 c 35 § 54; Rem. Supp. 1945 § 9998-192. Prior: 1937 c 162 § 17.]

Attorney general: Chapter 43.10 RCW.

50.12.160 Publication of title, rules and regulations, etc. The commissioner may cause to be printed for distribution to the public the text of this title, the regulations and general rules, and other material which he or she deems relevant and suitable. [2010 c 8 § 13018; 1977 c 75 § 76; 1945 c 35 § 55; Rem. Supp. 1945 § 9998-193.]

50.12.170 Services and fees of sheriffs. The sheriff of any county, upon request of the commissioner or his or her duly authorized representative, or upon request of the attorney general, shall, for and on behalf of the commissioner, perform the functions of service, distraint, seizure, and sale, authority for which is granted to the commissioner or his or her duly authorized representative. No bond shall be required by the sheriff of any county for services rendered for the commissioner, his or her duly authorized representative, or the attorney general. The sheriff shall be allowed such fees as may be prescribed for like or similar official services. [2010 c 8 § 13019; 1945 c 35 § 56; Rem. Supp. 1945 § 9998-194.]

County sheriff: Chapter 36.28 RCW.

50.12.180 State-federal cooperation. The commissioner, through the Washington state employment service division, shall establish and maintain free public employment offices in such places as may be necessary for the proper administration of this title and for the purpose of performing such duties as are within the purview of the act of congress entitled "An Act to provide for the establishment of a national employment system and for other purposes," approved June 6, 1933 (48 Stat. 113; U.S.C. Title 29, Sec. 49(c), as amended).

In the administration of this title the commissioner shall cooperate to the fullest extent consistent with the provisions of this title, with any official or agency of the United States having powers or duties under the provisions of the said act of congress, as amended, and to do and perform all things necessary to secure to this state the benefits of the said act of congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said act of congress, as amended, are hereby accepted by this state, in conformity with section 4 of said act and there shall be observance of and compliance with the requirements thereof. The commissioner may cooperate with or enter into agreements with the railroad retirement board with respect to the establishment, maintenance, and use of free employment service facilities, and make available to said board the state's records relating to the administration of this title, and furnish such copies thereof, at the expense of the board, as it may deem necessary for its purposes.

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.

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. [1973 1st ex.s. c 158 § 4; 1959 c 266 § 2; 1945 c 35 § 57; Rem. Supp. 1945 § 9998-195. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

Additional notes found at www.leg.wa.gov

50.12.190 Employment stabilization. The commissioner shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation by municipalities, counties, school districts, and the state, of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; and to these ends to carry and publish the results of investigations and research studies. [1945 c 35 § 58; Rem. Supp. 1945 § 9998-197. Prior: 1943 c 127 § 8; 1941 c 253 § 8; 1939 c 214 § 9; 1937 c 162 § 11.]

50.12.200 State advisory council—Committees and councils. The commissioner shall appoint a state advisory council composed of not more than nine men and women, of which three shall be representatives of employers, three shall be representatives of employees, and three shall be representatives of the general public. Such council shall aid the commissioner in formulating policies and discussing problems related to the administration of this title and of assuring impartiality and freedom from political influence in the solution of such problems. The council shall serve without compensation. The commissioner may also appoint committees,

and industrial or other special councils, to perform appropriate services. Advisory councilmembers shall be reimbursed for travel expenses incurred in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended. [1982 1st ex.s. c 18 § 1; 1975-'76 2nd ex.s. c 34 § 149; 1953 ex.s. c 8 § 4; 1947 c 215 § 12; 1945 c 35 § 59; Rem. Supp. 1947 § 9998-197. Prior: 1941 c 253 § 17.]

Additional notes found at www.leg.wa.gov

50.12.210 Employment services for handicapped—Report to legislative committees. It is the policy of the state of Washington that persons with physical, mental, or sensory handicaps shall be given equal opportunities in employment. The legislature recognizes that handicapped persons have faced unfair discrimination in employment.

For these reasons, the state employment service division of the employment security department shall give particular and special attention service to those persons with physical, mental, or sensory handicaps which substantially limit one or more of their major life functions as defined under P.L. 93-112 and rules promulgated thereunder. Particular and special attention service shall include but not be limited to particular and special attention in counseling, referral, notification of job listings in advance of other persons, and other services of the employment service division.

Nothing in this section shall be construed so as to affect the veteran's preference or any other requirement of the United States department of labor.

The employment security department shall report to the house and senate commerce and labor committees by December 1, 1987, on its accomplishments under this section and on its future plans for implementation of this section. The department shall report to the above mentioned committees every odd-numbered year thereafter on its actions under this section.

The employment security department shall establish rules to implement this section. [1987 c 76 § 1; 1977 ex.s. c 273 § 1.]

50.12.220 Penalties for late reports or contributions—Warning—Assessment—Waiver—Appeal. (1) If an employer fails to file a timely report as required by RCW 50.12.070, or the rules adopted pursuant thereto, the employer is subject to a penalty of twenty-five dollars per violation, unless the penalty is waived by the commissioner.

(2) An employer who files an incomplete or incorrectly formatted tax and wage report as required by RCW 50.12.070 must receive a warning letter for the first occurrence. The warning letter will provide instructions for accurate reporting or notify the employer how to obtain technical assistance from the department. Except as provided in subsections (3) and (4) of this section, for subsequent occurrences within five years of the last occurrence, the employer is subject to a penalty as follows:

(a) When no contributions are due: For the second occurrence, the penalty is seventy-five dollars; for the third occurrence, the penalty is one hundred fifty dollars; and for the fourth occurrence and for each occurrence thereafter, the penalty is two hundred fifty dollars.

(b) When contributions are due: For the second occurrence, the penalty is ten percent of the quarterly contributions

due, but not less than seventy-five dollars and not more than two hundred fifty dollars; for the third occurrence, the penalty is ten percent of the quarterly contributions due, but not less than one hundred fifty dollars and not more than two hundred fifty dollars; and for the fourth occurrence and each occurrence thereafter, the penalty is two hundred fifty dollars.

(3) If an employer knowingly misrepresents to the employment security department the amount of his or her payroll upon which contributions under this title are based, the employer shall be liable to the state for up to ten times the amount of the difference in contributions paid, if any, and the amount the employer should have paid and for the reasonable expenses of auditing his or her books and collecting such sums. Such liability may be enforced in the name of the department.

(4) If contributions are not paid on the date on which they are due and payable as prescribed by the commissioner, there shall be assessed a penalty of five percent of the amount of the contributions for the first month or part thereof of delinquency; there shall be assessed a total penalty of ten percent of the amount of the contributions for the second month or part thereof of delinquency; and there shall be assessed a total penalty of twenty percent of the amount of the contributions for the third month or part thereof of delinquency. No penalty so added shall be less than ten dollars. These penalties are in addition to the interest charges assessed under RCW 50.24.040.

(5) Penalties shall not accrue on contributions from an 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 a receiver, executor, administrator, trustee in bankruptcy, common law assignee, or other liquidating officer shall become due and shall be subject to penalties in the same manner as contributions due from other employers.

(6) Where adequate information has been furnished to the department and the department has failed to act or has advised the employer of no liability or inability to decide the issue, penalties shall be waived by the commissioner. Penalties may also be waived for good cause if the commissioner determines that the failure to file timely, complete, and correctly formatted reports or pay timely contributions was not due to the employer's fault.

(7) Any decision to assess a penalty as provided by this section shall be made by the chief administrative officer of the tax branch or his or her designee.

(8) Nothing in this section shall be construed to deny an employer the right to appeal the assessment of any penalty. Such appeal shall be made in the manner provided in RCW 50.32.030. [2007 c 146 § 3; 2006 c 47 § 3; 2004 c 97 § 1; 2003 2nd sp.s. c 4 § 22; 1987 c 111 § 2; 1979 ex.s. c 190 § 1.]

Additional notes found at www.leg.wa.gov

50.12.230 Job skills training program—Department's duties. See RCW 28C.04.400 through 28C.04.420.

50.12.235 Washington conservation corps—Department's duties. See chapter 43.220 RCW.

50.12.240 On-the-job training—Employer qualifications established by rule. The commissioner may establish by rule qualifications for employers who agree to provide on-the-job training for new employees. [1985 c 299 § 2.]

50.12.245 Cooperation with workforce training and education coordinating board. The commissioner shall cooperate with the workforce training and education coordinating board in the conduct of the board's responsibilities under RCW 28C.18.060 and shall provide information and data in a format that is accessible to the board. [1991 c 238 § 80.]

50.12.250 Information clearinghouse to assist in employment of persons of disability. The employment security department shall establish an information clearinghouse for use by persons of disability and governmental and private employers. The services of the clearinghouse shall include:

(1) Provision of information on private and state services available to assist persons of disability in their training and employment needs;

(2) Provision of information on private, state, and federal incentive programs and services available to employers of persons of disability; and

(3) Publication of a comprehensive list of programs and services in subsections (1) and (2) of this section. [1987 c 369 § 2.]

Legislative finding—1987 c 369: "The legislature finds that improving the economic status of persons of disability, the state's largest social minority with over four hundred thousand people, will require active state involvement. Persons of disability suffer unemployment at almost twice the rate and experience poverty at more than twice the rate of the general population. Employers have experienced confusion about the variety of employment services available to them. Optimum service from, and access to, the state's training and placement programs for persons of disability requires coordination and a clear focus on the stated needs of persons of disability and their prospective employers. It is the purpose of this chapter to guarantee that representatives of the disability community, labor, and the private sector have an institutionalized means of meeting their respective needs in the training, employment, and economic participation of persons of disability." [1987 c 369 § 1.]

50.12.252 Information clearinghouse—Consultation on establishment. In establishing the information clearinghouse, the employment security department shall consult with organizations of private sector employers and persons of disability. [1987 c 369 § 3.]

Legislative finding—1987 c 369: See note following RCW 50.12.250.

50.12.290 Printed materials—Department's duties. When an employer initially files a business license application under chapter 19.02 RCW for the purpose, in whole or in part, of registering to pay unemployment insurance taxes, the employment security department must send to the employer any printed material the department recommends or requires the employer to post. Any time the printed material has substantive changes in the information, the department must

send a copy to each employer. [2013 c 144 § 41; 2007 c 287 § 1.]

50.12.300 Professional employer organizations—Reports and records. (1) A professional employer organization must register with the department and ensure that its client employers are registered with the department as provided in RCW 50.12.070.

(2) By September 1, 2007, the professional employer organization shall provide the department with:

(a) The names, addresses, unified business identifier numbers, and employment security account numbers of all its existing client employers who do business or have covered employees in Washington state. This requirement applies whether or not the client employer currently has covered employees performing services in Washington state;

(b) The names and social security numbers of corporate officers, owners, or limited liability company members of client employers; and

(c) The business location in Washington state where payroll records of its client employers will be made available for review or inspection upon request of the department.

(3) For client employers registering for the first time as required in RCW 50.12.070, the professional employer organization must:

(a) Provide the names, addresses, unified business identifier numbers, and employment security account numbers of the client employers who do business or have covered employees in Washington state. This requirement applies whether or not the client employer currently has covered employees performing services in Washington state;

(b) Provide the names and social security numbers of corporate officers, owners, or limited liability company members of the client employers; and

(c) Provide the business location in Washington state where payroll records of its client employers will be made available for review or inspection at the time of registration or upon request of the department.

(4) The professional employer organization must notify the department within thirty days each time it adds or terminates a relationship with a client employer. Notification must take place on forms provided by the department. The notification must include the name, employment security account number, unified business identifier number, and address of the client employer, as well as the effective date the relationship began or terminated.

(5) The professional employer organization must provide a power of attorney, confidential information authorization, or other evidence, completed by each client employer as required by the department, authorizing it to act on behalf of the client employer for unemployment insurance purposes.

(6) The professional employer organization must file quarterly wage and contribution reports with the department. The professional employer organization may file either a single electronic report containing separate and distinct information for each client employer and using the employer account number and tax rate assigned to each client employer by the department, or separate paper reports for each client employer.

(7) The professional employer organization must maintain accurate payroll records for each client employer and

make these records available for review or inspection upon request of the department at the location provided by the professional employer organization. [2007 c 146 § 9.]

Additional notes found at www.leg.wa.gov

50.12.310 Professional employer organizations—Revocation of authority to act as coemployer. A professional employer organization's authority to act as a coemployer for purposes of this title may be revoked by the department when it determines that the professional employer organization has substantially failed to comply with the requirements of RCW 50.12.300. [2007 c 146 § 12.]

Additional notes found at www.leg.wa.gov

50.12.320 Labor market research—High-demand green industries—Middle or high-wage occupations. The employment security department, in consultation with the *department, the workforce board, and the **leadership team must take the following actions:

(1) Conduct and update labor market research on a biennial basis to analyze the current public and private labor market and projected job growth in the green economy, the current and projected recruitment and skill requirement of public and private green economy employers, the wage and benefits ranges of jobs within green economy industries, and the education and training requirements of entry-level and incumbent workers in those industries;

(2) Propose which industries will be considered high-demand green industries, based on current and projected job creation and their strategic importance to the development of the state's green economy; and

(3) Define which family-sustaining wage and benefits ranges within green economy industries will be considered middle or high-wage occupations and occupations are part of career pathways to the same. [2009 c 536 § 11.]

Reviser's note: *(1) "Department" apparently refers to "department" as defined in RCW 43.330.010.

***(2) The leadership team was created in 2009 c 536 § 3, which was vetoed.

Short title—2009 c 536: See note following RCW 43.330.370.

50.12.330 Domestic violence employment poster. (1) The department shall create an employment poster regarding domestic violence. The poster shall include space in which an employer shall provide the name or names of community resources regarding domestic violence. The employer shall post the poster and keep it posted in a conspicuous place where other required employment posters are posted. The department shall make the poster available on its web site and may make the poster available in other formats.

(2) This section does not create any liability for any person or entity for any acts or omissions. [2019 c 228 § 2.]

Findings—Intent—2019 c 228: "(1) The legislature finds that domestic violence causes physical and psychological harm, broken families, economic loss, and other societal ills. According to the center for disease control's national intimate partner and sexual violence survey, about one in three women and one in three men reported experiencing intimate partner violence in their lifetime. In Washington in 2017, over fifty-four thousand domestic violence offenses were reported to law enforcement and forty-nine domestic violence homicides were committed.

(2) The legislature finds that the workplace may be the only location in which an individual experiencing domestic violence may be free from a perpetrator and feel safe. Individuals experiencing domestic violence may also

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find the workplace a place of shared confidences. Therefore, the legislature intends to shine the light on and help curb domestic violence by providing, in the workplace, contact information for community resources regarding domestic violence." [2019 c 228 § 1.]

Chapter 50.13 RCW

RECORDS AND INFORMATION—PRIVACY AND CONFIDENTIALITY

Sections

50.13.015	Information held private and confidential—Requests for disclosure.
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50.13.900	Construction.

50.13.015 Information held private and confidential—Requests for disclosure. (1) If information provided to the department by another governmental agency is held private and confidential by state or federal laws, the department may not release such information.

(2) Information provided to the department by another governmental entity conditioned upon privacy and confidentiality is to be held private and confidential according to the agreement between the department and other governmental agency.

(3) The department may hold private and confidential information obtained for statistical analysis, research, or study purposes if the information was supplied voluntarily, conditioned upon maintaining confidentiality of the information.

(4) Persons requesting disclosure of information held by the department under subsection (1) or (2) of this section shall request such disclosure from the agency providing the information to the department rather than from the department.

(5) This section supersedes any provisions of chapter 42.56 RCW to the contrary. [2005 c 274 § 319; 1989 c 92 § 3.]

50.13.020 Information or records deemed private and confidential—Exceptions. Any information or records concerning an individual or employing unit obtained by the employment security department pursuant to the administration of this title shall be private and confidential, except as otherwise provided in this chapter. This chapter does not cre-

ate a rule of evidence. Information or records may be released by the employment security department when the release is:

(1) Required by the federal government in connection with, or as a condition of funding for, a program being administered by the employment security department; or

(2) Requested by a county clerk for the purposes of RCW 9.94A.760.

The provisions of RCW 50.13.060(1) (a), (b) and (c) will not apply to such release. [2019 c 81 § 1; 2004 c 121 § 5; 1981 c 35 § 2; 1977 ex.s. c 153 § 2.]

Additional notes found at www.leg.wa.gov

50.13.030 Rules. The commissioner shall have the authority to adopt, amend, or rescind rules interpreting and implementing the provisions of this chapter. [2019 c 81 § 2; 2005 c 274 § 320; 1977 ex.s. c 153 § 3.]

50.13.040 Access of individual or employing unit to records and information. (1) An individual shall have access to all records and information concerning that individual held by the employment security department, unless the information is exempt from disclosure under RCW 42.56.410.

(2) An employing unit shall have access to its own records and to any records and information relating to a benefit claim by an individual if the employing unit is either the individual's last employer or is the individual's base year employer.

(3) An employing unit shall have access to any records and information relating to any decision to allow or deny benefits if:

(a) The decision is based on employment or an offer of employment with the employing unit; or

(b) If the decision is based on material information provided by the employing unit.

(4) An employing unit shall have access to general summaries of benefit claims by individuals whose benefits are chargeable to the employing unit's experience rating or reimbursement account.

(5) The employment security department may disclose records and information deemed confidential under this chapter to a third party acting on behalf of an individual or employing unit that would otherwise be eligible to receive records under subsections (1) through (4) of this section when the employment security department receives a release from the individual, the employing unit, or the third party. The release must be signed and include a statement:

(a) Specifically identifying the information that is to be disclosed;

(b) That state government files will be accessed to obtain the information;

(c) Of the specific purpose or purposes for which the information is sought and that the information obtained under the release will only be used for that purpose or purposes; and

(d) Indicating all the parties who may receive the information disclosed. [2019 c 81 § 3; 2005 c 274 § 321; 1993 c 483 § 6; 1977 ex.s. c 153 § 4.]

Additional notes found at www.leg.wa.gov

50.13.050 Access to records or information by interested party in proceeding before appeal tribunal or commissioner—Decisions not private and confidential, exception. (1) Any interested party, as defined by rule, in a proceeding before the appeal tribunal or commissioner shall have access to any information or records deemed private and confidential under this chapter if the information or records are material to the issues in that proceeding.

(2) No decisions by the commissioner or the appeals tribunal shall be deemed private and confidential under this chapter unless the decisions are based on information obtained in a closed hearing. [1977 ex.s. c 153 § 5.]

50.13.060 Access to records or information by governmental agencies. (1) Unless otherwise required by federal law, only state and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act may have access to information or records deemed private and confidential under this chapter if the information or records are needed by the agency for official purposes and:

(a) The agency submits an application in a manner specified by the employment security department for the records or information containing a statement of the official purposes for which the information or records are needed and specific identification of the records or information sought from the employment security department; and

(b) The director, commissioner, chief executive, or other official of the agency requesting records or information has verified the need for the specific information; and

(c) The agency requesting access has served a copy of the application for records or information on the individual or employing unit whose records or information are sought and has provided the employment security department with proof of service. Service shall be made in a manner which conforms to the civil rules for superior court. The requesting agency shall include with the copy of the application a statement to the effect that the individual or employing unit may contact the public records officer of the employment security department to state any objections to the release of the records or information. The employment security department shall not act upon the application of the requesting agency until at least five days after service on the concerned individual or employing unit. The employment security department shall consider any objections raised by the concerned individual or employing unit in deciding whether the requesting agency needs the information or records for official purposes.

(2) The requirements of subsection (1) of this section shall not apply to the state legislative branch. The state legislature may have access to information or records deemed private and confidential under this chapter, if the legislature or a legislative committee finds that the information or records are necessary and for official purposes.

(3) In cases of emergency the governmental agency requesting access shall not be required to formally comply with the provisions of subsection (1) of this section at the time of the request if the procedures required by subsection (1) of this section are complied with by the requesting agency following the receipt of any records or information deemed private and confidential under this chapter. An emergency is defined as a situation in which irreparable harm or damage

could occur if records or information are not released immediately.

(4) The requirements of subsection (1)(c) of this section shall not apply to state and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act where the procedures would frustrate the investigation of possible violations of criminal laws or to the release of employing unit names, addresses, number of employees, and aggregate employer wage data for the purpose of state governmental agencies preparing small business economic impact statements under chapter 19.85 RCW or preparing cost-benefit analyses under RCW 34.05.328(1) (c) and (d).

(5) State and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act may have access to certain records or information deemed private and confidential under this chapter for comparison purposes with records or information possessed by the requesting agency to detect improper or fraudulent claims, to determine potential tax liability or employer compliance with registration and licensing requirements, or for reasons otherwise within the discharge of their official duties. In those cases the state or local governmental agency or federally recognized Indian tribe as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act shall not be required to comply with subsection (1)(c) of this section, but the requirements of subsection (1)(a) and (b) of this section must be satisfied.

(6) Governmental agencies may have access to certain records and information, limited to employer information possessed by the employment security department for purposes authorized in chapter 50.38 RCW. Access to these records and information is limited to only those individuals conducting authorized statistical analysis, research, and evaluation studies. Only in cases consistent with the purposes of chapter 50.38 RCW are governmental agencies not required to comply with subsection (1)(c) of this section, but the requirements of subsection (1)(a) and (b) of this section must be satisfied.

(7) Disclosure to governmental agencies of information or records obtained by the employment security department from the federal government shall be governed by any applicable federal law or any agreement between the federal government and the employment security department where so required by federal law. When federal law does not apply to the records or information state law shall control.

(8) The employment security department may provide information for purposes of statistical analysis and evaluation of the WorkFirst program or any successor state welfare program to the department of social and health services, the office of financial management, and other governmental entities with oversight or evaluation responsibilities for the program in accordance with RCW 43.20A.080. The confidential information provided by the employment security department shall remain the property of the employment security department and may be used by the authorized requesting agencies only for statistical analysis, research, and evaluation purposes as provided in RCW 74.08A.410 and 74.08A.420. The department of social and health services, the office of financial management, or other governmental entities with oversight or evaluation responsibilities for the program are

not required to comply with subsection (1)(c) of this section, but the requirements of the remainder of subsection (1) of this section and applicable federal laws and regulations must be satisfied. The confidential information used for evaluation and analysis of welfare reform supplied to the authorized requesting entities with regard to the WorkFirst program or any successor state welfare program are exempt from public inspection and copying under chapter 42.56 RCW.

(9) In conducting periodic salary or fringe benefit studies pursuant to law, the office of financial management shall have access to records of the employment security department as may be required for such studies. For such purposes, the requirements of subsection (1)(c) of this section need not apply.

(10)(a) To promote the reemployment of job seekers, the commissioner may enter into data-sharing contracts with partners of the one-stop system established by P.L. 113-128 or its successor and identified as signatories of local memoranda of understanding. The contracts shall provide for the transfer of data only to the extent that the transfer is necessary for the efficient provisions of workforce programs, including but not limited to public labor exchange, unemployment insurance, worker training and retraining, vocational rehabilitation, vocational education, adult education, transition from public assistance, and support services. The transfer of information under contracts with one-stop partners is exempt from subsection (1)(c) of this section.

(b) An individual who applies for services from the employment security department and whose information will be shared under (a) of this subsection must be notified that his or her private and confidential information in the employment security department's records will be shared among the one-stop partners to facilitate the delivery of one-stop services to the individual. The notice must advise the individual that he or she may request that private and confidential information not be shared among the one-stop partners and the employment security department must honor the request. In addition, the notice must:

(i) Advise the individual that if he or she requests that private and confidential information not be shared among one-stop partners, the request will in no way affect eligibility for services;

(ii) Describe the nature of the information to be shared, the general use of the information by one-stop partner representatives, and among whom the information will be shared;

(iii) Inform the individual that shared information will be used only for the purpose of delivering one-stop services and that further disclosure of the information is prohibited under contract and is not subject to disclosure under chapter 42.56 RCW; and

(iv) Be provided in English and an alternative language selected by the one-stop center or job service center as appropriate for the community where the center is located.

If the notice is provided in-person, the individual who does not want private and confidential information shared among the one-stop partners must immediately advise the one-stop partner representative of that decision. The notice must be provided to an individual who applies for services telephonically, electronically, or by mail, in a suitable format and within a reasonable time after applying for services, which shall be no later than ten working days from the

employment security department's receipt of the application for services. Information describing the nature, extent, and purpose for which the information may be shared must be available upon request.

(11) To facilitate improved operation and evaluation of state programs, the commissioner may enter into data-sharing contracts with other state and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act, and by extension their agents, only to the extent that such transfer is necessary for the efficient operation or evaluation of outcomes for those programs. The transfer of information by contract under this subsection is exempt from subsection (1)(c) of this section. [2019 c 81 § 4; 2011 1st sp.s. c 43 § 466; 2008 c 120 § 6; 2005 c 274 § 322; 2003 c 165 § 3; 2000 c 134 § 2. Prior: 1997 c 409 § 605; 1997 c 58 § 1004; 1996 c 79 § 1; 1993 c 281 § 59; 1981 c 177 § 1; 1979 ex.s. c 177 § 1; 1977 ex.s. c 153 § 6.]

Effective date—Purpose—2011 1st sp.s. c 43: See notes following RCW 43.19.003.

Findings—2000 c 134: "The legislature finds that individuals in need of employment and related services would be better served by integrating employment and training services to form a comprehensive network of state and local programs, called a one-stop career development system. Successful integration of employment and training services demands prompt and efficient exchange of information among service providers. The legislature further finds that efficient operation of state programs and their evaluation demand at times information held by the employment security department. Current restrictions on information exchange hamper this coordination, resulting in increased administrative costs, reduced levels of service, and fewer positive outcomes than could otherwise be achieved." [2000 c 134 § 1.]

Additional notes found at www.leg.wa.gov

50.13.070 Availability of records or information to parties to judicial or administrative proceedings—Discovery proceedings—Subpoenas. Information or records deemed private and confidential under this chapter shall be available to parties to judicial or formal administrative proceedings only upon a written finding by the presiding officer that the need for the information or records in the proceeding outweighs any reasons for the privacy and confidentiality of the information or records. Information or records deemed private and confidential under this chapter shall not be available in discovery proceedings unless the court in which the action has been filed has made the finding specified above. A judicial or administrative subpoena directed to the employment security department must contain this finding. A subpoena for records or information under this section must be submitted in a manner prescribed by the employment security department. The employment security department may recover costs of responding to subpoenas, consistent with 20 C.F.R. Sec. 603.8 (2012), for proceedings where the employment security department is not a party. [2019 c 81 § 5; 1977 ex.s. c 153 § 7.]

50.13.080 Disclosure of records or information to private persons or organizations contracting to assist in operation and management of department—Penalties. (1) The employment security department shall have the right to disclose information or records deemed private and confidential under this chapter to any private person or organization when such disclosure is necessary to permit private con-

tracting parties to assist in the operation and management of the employment security department in instances where certain employment security departmental functions may be delegated to private parties to increase the employment security department's efficiency or quality of service to the public. The private persons or organizations shall use the information or records solely for the purpose for which the information was disclosed and shall be bound by the same rules of privacy and confidentiality as employment security department employees.

(2) Nothing in this section shall be construed as limiting or restricting the effect of RCW 42.56.070(8). [2019 c 81 § 6; 2005 c 274 § 323; 1996 c 79 § 2; 1977 ex.s. c 153 § 8.]

Additional notes found at www.leg.wa.gov

50.13.090 Disclosure of records or information to contracting governmental or private organizations. Where the employment security department contracts to provide services to other governmental or private organizations, the department may disclose to those organizations information or records deemed private and confidential which have been acquired in the performance of the department's obligations under the contracts. [1977 ex.s. c 153 § 9.]

50.13.100 Disclosure of records or information where identifying details deleted or individual or employing unit consents. Nothing in this chapter shall prevent the disclosure of information or records deemed private and confidential under this chapter if all details identifying an individual or employing unit are deleted so long as the information or records cannot be foreseeably combined with other publicly available information to reveal the identity of an individual or employing unit or the individual or employing unit consents to the disclosure in a manner prescribed by the employment security department. [2019 c 81 § 7; 1977 ex.s. c 153 § 10.]

50.13.110 Disclosure of confidential information—Duty to prevent—Prohibition—Penalties—Exemptions. (1) All private persons, governmental agencies, and organizations authorized to receive information from the employment security department under this chapter have an affirmative obligation to take all reasonable actions necessary that are designed to prevent the disclosure of confidential information.

(2) The disclosure of any records or information by a private person, governmental agency, or organization that obtained the records or information from the employment security department under this chapter is prohibited unless expressly permitted by this chapter.

(3) If misuse or an unauthorized disclosure of confidential records or information occurs, all parties aware of the violation must inform the employment security department immediately and take all reasonably available actions to rectify the disclosure to the employment security department's standards.

(4) The misuse or unauthorized disclosure of records or information deemed private and confidential under this chapter by any private person, governmental agency, or organization to which access is permitted by this chapter shall subject the person, governmental agency, or organization to a civil

penalty of up to twenty thousand dollars in 2018 and annually adjusted by the employment security department on the first calendar day of each year based on changes in the United States consumer price index for all urban consumers. Other applicable sanctions under state and federal law also apply. The amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section.

(5) Any redisclosure of information obtained under this chapter by a private person, governmental agency, or organization must be expressly permitted by the employment security department prior to redisclosure. Failure to obtain prior approval by the employment security department could subject the private person, governmental agency, or organization to the penalties described in subsection (4) of this section.

(6) State and local governmental agencies and federally recognized Indian tribes as defined in Title 26 U.S.C. Sec. 3306(u) of the federal unemployment tax act are exempt from the penalties described in subsection (4) of this section if the redisclosure is necessary for the state, local, or tribal government to conduct a criminal prosecution. [2019 c 81 § 8.]

50.13.120 Administration and oversight of this chapter—Agency privacy officer—Report to governor and legislature. (1) The employment security department shall designate an agency privacy officer to oversee the administration of this chapter and chapter 50A.25 RCW. In coordination with the state office of privacy and data protection, the agency privacy officer must:

(a) Develop an agency personal information minimization policy to reduce the use and retention of personal information wherever possible;

(b) Create a work plan that includes the estimated costs of execution for the following:

(i) An inventory of all personal information prepared, owned, used, or retained by the employment security department, that would include the specific type of information, the purpose for its collection, and the extent to which the information is protected from unauthorized access; and

(ii) A map of the physical or digital location of all personal information collected by the employment security department, indexed to the inventory created in (b)(i) of this subsection; and

(c) Report the work plan created under (b) of this subsection to the state office of privacy and data protection annually.

(2) Any inventory or data map records created under subsection (1)(b) of this section that reveal the location of personal information or the extent to which it is protected may not be disclosed under the public records act, chapter 42.56 RCW.

(3) On December 1st of each odd-numbered year, the employment security department must report to the governor and the legislature on the implementation and maintenance of this section, including best practices and recommendations for developing and implementing the employment security department's policy and plan under this section.

(4) For purposes of this section, "personal information" means any information obtained by the employment security

department deemed private and confidential under this chapter and chapter 50A.25 RCW. [2019 c 81 § 9.]

50.13.130 Application to information obtained by the employment security department under Title 50A RCW. Except for RCW 50.13.120, the provisions of this chapter do not apply to information obtained by the employment security department under Title 50A RCW. [2019 c 81 § 11.]

50.13.900 Construction. Any ambiguities in this chapter shall be construed in a manner consistent with federal laws applying to the employment security department. If any provision of this chapter or the application thereof is held invalid by a final decision of any court or declared by the secretary of the department of labor of the United States to be inconsistent with federal laws upon which funding of the employment security department is contingent, the invalid or inconsistent provision shall be ineffective only to the extent necessary to insure compliance with the court decision or federal determination and the remainder of the chapter shall be given full effect. [1977 ex.s. c 153 § 11.]

Chapter 50.16 RCW FUNDS

Sections

50.16.010	Unemployment compensation fund—Administrative contingency fund.
50.16.020	Administration of funds—Accounts.
50.16.030	Withdrawals from federal unemployment trust fund.
50.16.040	Management of funds upon discontinuance of federal unemployment trust fund.
50.16.050	Unemployment compensation administration fund.
50.16.060	Replacement of federal funds.
50.16.070	Federal interest payment fund—Employer contributions—When payable—Maximum rate—Deduction from remuneration unlawful.
50.16.080	Federal targeted jobs tax credit program—Administration—Processing fee—Deposit of fees.

50.16.010 Unemployment compensation fund—Administrative contingency fund. (1) 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, 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.

(2)(a) The unemployment compensation fund shall consist of:

(i) All contributions collected under RCW 50.24.010 and payments in lieu of contributions collected pursuant to the provisions of this title;

(ii) Any property or securities acquired through the use of moneys belonging to the fund;

(iii) All earnings of such property or securities;

(iv) 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;

(v) All money recovered on official bonds for losses sustained by the fund;

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

(vii) 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);

(viii) The portion of the additional penalties as provided in RCW 50.20.070(2) that is fifteen percent of the amount of benefits overpaid or deemed overpaid; and

(ix) All moneys received for the fund from any other source.

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

(3)(a) Except as provided in (b) of this subsection, the administrative contingency fund shall consist of:

(i) All interest on delinquent contributions collected pursuant to this title;

(ii) All fines and penalties collected pursuant to the provisions of this title, except the portion of the additional penalties as provided in RCW 50.20.070(2) that is fifteen percent of the amount of benefits overpaid or deemed overpaid;

(iii) All sums recovered on official bonds for losses sustained by the fund; and

(iv) Revenue received under RCW 50.24.014.

(b) All fees, fines, forfeitures, and penalties collected or assessed by a district court because of the violation of this title or rules adopted under this title shall be remitted as provided in chapter 3.62 RCW.

(c) Except as provided in (d) of this subsection, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014, 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 solely for:

(i) The proper administration of this title and that insufficient 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.

(ii) 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.

(iii) The proper administration of this title for which compliance and audit issues have been identified that establish federal claims requiring the expenditure of state resources in resolution. Claims must be resolved in the following priority: First priority is to provide services to eligible participants within the state; second priority is to provide substitute services or program support; and last priority is the direct payment of funds to the federal government.

(d)(i) During the 2007-2009 fiscal biennium, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature for: (A) The cost of the job skills or worker retraining programs at the community and technical colleges and administrative costs at the state board for community and technical colleges; and (B) reemployment services such as business and project development assistance, local economic development capacity building, and local economic develop-

ment financial assistance at the department of commerce. The remaining appropriation may be expended as specified in (c) of this subsection.

(ii) During the 2015-2017, 2017-2019, and 2019-2021 fiscal biennia, moneys available in the administrative contingency fund, other than money in the special account created under RCW 50.24.014(1)(a), shall be expended as appropriated by the legislature: (A) For the department of social and health services for employment and training services and programs in the WorkFirst program; (B) for the administrative costs of state agencies participating in the WorkFirst program; and (C) by the commissioner for the work group on agricultural and agricultural-related issues as provided in the 2013-2015 omnibus operating appropriations act. The remaining appropriation may be expended as specified in (c) of this subsection.

(4) Money in the special account created under RCW 50.24.014(1)(a) may only be expended, after appropriation, for the purposes specified in this section and RCW 50.62.010, 50.62.020, 50.62.030, 50.24.014, 50.44.053, and 50.22.010. [2019 c 415 § 977; 2017 3rd sp.s. c 1 § 977; 2016 sp.s. c 36 § 940; 2014 c 221 § 920; 2013 c 189 § 1; 2012 c 198 § 11; 2009 c 564 § 946; 2009 c 4 § 906; 2008 c 329 § 915; 2007 c 327 § 4; 2006 c 13 § 18. Prior: 2005 c 518 § 933; prior: 2003 2nd sp.s. c 4 § 23; 2003 1st sp.s. c 25 § 925; 2002 c 371 § 914; prior: 1993 c 483 § 7; 1993 c 226 § 10; 1993 c 226 § 9; 1991 sp.s. c 13 § 59; 1987 c 202 § 218; 1985 ex.s. c 5 § 6; 1983 1st ex.s. c 13 § 5; 1980 c 142 § 1; 1977 ex.s. c 292 § 24; 1973 c 73 § 4; 1969 ex.s. c 199 § 27; 1959 c 170 § 1; 1955 c 286 § 2; 1953 ex.s. c 8 § 5; 1945 c 35 § 60; Rem. Supp. 1945 § 9998-198; prior: 1943 c 127 § 6; 1941 c 253 §§ 7, 10; 1939 c 214 § 11; 1937 c 162 § 13.]

Effective date—2019 c 415: See note following RCW 28B.20.476.

Effective date—2017 3rd sp.s. c 1: See note following RCW 43.41.455.

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Effective date—2014 c 221: See note following RCW 28A.710.260.

Conflict with federal requirements—2013 c 189: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 189 § 5.]

Effective date—2013 c 189: "This act takes effect October 20, 2013." [2013 c 189 § 7.]

Effective date—2012 c 198: See note following RCW 70.94.6532.

Expiration date—2009 c 564 § 946: "Section *946 of this act expires June 30, 2016." [2009 c 564 § 963.]

***Reviser's note:** During the course of passage of 2009 c 564 the section numbering was changed, but the section reference in section 963 was not changed accordingly. The amendments to RCW 43.325.040 were apparently intended to expire on June 30, 2016. RCW 43.325.040 expired June 30, 2016.

Effective date—2009 c 564: See note following RCW 2.68.020.

Effective date—2009 c 4: See note following RCW 43.79.460.

Intent—1987 c 202: See note following RCW 2.04.190.

Additional notes found at www.leg.wa.gov

50.16.020 Administration of funds—Accounts. The commissioner shall designate a treasurer and custodian of the unemployment compensation fund and of the administrative contingency fund, who shall administer such funds in accordance with the directions of the commissioner and shall issue his or her warrants upon them in accordance with such regulations as the commissioner shall prescribe. The treasurer and custodian shall maintain within the unemployment compensation fund three separate accounts as follows:

- (1) a clearing account,
- (2) an unemployment trust fund account, and
- (3) a benefit account.

All moneys payable to the unemployment compensation fund, upon receipt thereof by the commissioner, shall be forwarded to the treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to the provisions of this title from the unemployment compensation fund may be paid from the clearing account upon warrants issued by the treasurer under the direction of the commissioner: PROVIDED, HOWEVER, That refunds of interest or penalties on delinquent contributions shall be paid from the administrative contingency fund upon warrants issued by the treasurer under the direction of the commissioner.

After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States to the credit of the account of this state in the unemployment trust fund, established and maintained pursuant to section 904 of the social security act, as amended, any provisions of law in this state relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this state to the contrary notwithstanding.

The benefit account shall consist of all moneys requisitioned from this state's account in the unemployment trust fund. Moneys in the clearing and benefit accounts and in the administrative contingency fund shall not be commingled with other state funds, but shall be deposited by the treasurer, under the direction of the commissioner, in any bank or public depository in which general funds of the state may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund.

Such moneys shall be secured by said bank or public depository to the same extent and in the same manner as required by the general depository law of the state and collateral pledged shall be maintained in a separate custody account.

The treasurer shall give a bond conditioned upon the faithful performance of his or her duties as a custodian of the funds in an amount fixed by the director of the *department of general administration and in a form prescribed by law or approved by the attorney general. Premiums for said bond shall be paid from the administration fund. All sums recovered on official bonds for losses sustained by the unemployment compensation fund shall be deposited in such fund. All sums recovered on official bonds for losses sustained by the administrative contingency fund shall be deposited in such fund. [1993 c 226 § 12; 1993 c 226 § 11; 1983 1st ex.s. c 23 § 10; 1975 c 40 § 12; 1953 ex.s. c 8 § 6; 1945 c 35 § 61; Rem. Supp. 1945 § 9998-199. Prior: 1943 c 126 §§ 6, 9; 1939 c 214 § 11; 1937 c 162 § 13.]

(2019 Ed.)

***Reviser's note:** The "department of general administration" was renamed the "department of enterprise services" by 2011 1st sp.s. c 43 § 107.

Powers and duties of director of enterprise services as to official bonds: RCW 43.19.784.

Additional notes found at www.leg.wa.gov

50.16.030 Withdrawals from federal unemployment trust fund. (1)(a) Except as provided in (b) and (c) of this subsection, moneys shall be requisitioned from this state's account in the unemployment trust fund solely for the payment of benefits and repayment of loans from the federal government to guarantee solvency of the unemployment compensation fund in accordance with regulations prescribed by the commissioner, except that money credited to this state's account pursuant to section 903 of the social security act, as amended, shall be used exclusively as provided in subsection (5) of this section. The commissioner shall from time to time requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to its account therein, as he or she deems necessary for the payment of benefits for a reasonable future period. Upon receipt thereof the treasurer shall deposit such moneys in the benefit account and shall issue his or her warrants for the payment of benefits solely from such benefits account.

(b) During fiscal year 2006, moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned in the following order:

(i) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 209 of the temporary extended unemployment compensation act of 2002 (42 U.S.C. Sec. 1103(d)), the amount equal to the amount of benefits charged that exceed the contributions paid in the four consecutive calendar quarters ending on June 30, 2006, because the social cost factor contributions that employers are subject to under *RCW 50.29.025(2)(b)(ii)(B) are less than the social cost factor contributions that these employers would have been subject to if *RCW 50.29.025(2)(b)(ii)(A) had applied to these employers; and

(ii) Second, after the requisitioning required under (b)(i) of this subsection, from all other moneys credited to this state's account in the unemployment trust fund.

(c) During fiscal years 2012 and 2013, if moneys are credited to this state's account in the unemployment trust fund pursuant to section 903(f)(3) of the social security act, as amended in section 2003 of the American recovery and reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)(3)), moneys for the payment of regular benefits as defined in RCW 50.22.010 shall be requisitioned in the following order:

(i) First, from the moneys credited to this state's account in the unemployment trust fund pursuant to section 903 of the social security act, as amended in section 2003 of the American recovery and reinvestment act of 2009 (42 U.S.C. Sec. 1103(f)), a total amount during the two-year period consisting of fiscal years 2012 and 2013 that is equal to the total amount of temporary benefit increases under RCW 50.20.1202. This subsection shall not be construed as requiring that the total amount be requisitioned in each of these fiscal years; and

(ii) Second, after the requisitioning required under (c)(i) of this subsection, from all other moneys credited to this state's account in the unemployment trust fund.

(2) Expenditures of such moneys in the benefit account and refunds from the clearing account shall not be subject to any provisions of law requiring specific appropriations or other formal release by state officers of money in their custody, and RCW 43.01.050, as amended, shall not apply. All warrants issued by the treasurer for the payment of benefits and refunds shall bear the signature of the treasurer and the countersignature of the commissioner, or his or her duly authorized agent for that purpose.

(3) Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or in the discretion of the commissioner, shall be redeposited with the secretary of the treasury of the United States of America to the credit of this state's account in the unemployment trust fund.

(4) Money credited to the account of this state in the unemployment trust fund by the secretary of the treasury of the United States of America pursuant to section 903 of the social security act, as amended, may be requisitioned and used for the payment of expenses incurred for the administration of this title pursuant to a specific appropriation by the legislature, provided that the expenses are incurred and the money is requisitioned after the enactment of an appropriation law which:

(a) Specifies the purposes for which such money is appropriated and the amounts appropriated therefor;

(b) Limits the period within which such money may be obligated to a period ending not more than two years after the date of the enactment of the appropriation law; and

(c) Limits the amount which may be obligated during a twelve-month period beginning on July 1st and ending on the next June 30th to an amount which does not exceed the amount by which (i) the aggregate of the amounts credited to the account of this state pursuant to section 903 of the social security act, as amended, during the same twelve-month period and the thirty-four preceding twelve-month periods, exceeds (ii) the aggregate of the amounts obligated pursuant to subsections (4) through (6) of this section and charged against the amounts credited to the account of this state during any of such thirty-five twelve-month periods. For the purposes of subsections (4) through (6) of this section, amounts obligated during any such twelve-month period shall be charged against equivalent amounts which were first credited and which are not already so charged; except that no amount obligated for administration during any such twelve-month period may be charged against any amount credited during such a twelve-month period earlier than the thirty-fourth twelve-month period preceding such period: PROVIDED, That any amount credited to this state's account under section 903 of the social security act, as amended, which has been appropriated for expenses of administration, whether or not withdrawn from the trust fund shall be excluded from the unemployment compensation fund balance for the purpose of experience rating credit determination.

(5) Money credited to the account of this state pursuant to section 903 of the social security act, as amended, may not be withdrawn or used except for the payment of benefits and for the payment of expenses of administration and of public employment offices pursuant to subsections (4) through (6) of this section. However, moneys credited because of excess amounts in federal accounts in federal fiscal years 1999, 2000, and 2001 shall be used solely for the administration of the unemployment compensation program and are not subject to appropriation by the legislature for any other purpose.

(6) Money requisitioned as provided in subsections (4) through (6) of this section for the payment of expenses of administration shall be deposited in the unemployment compensation fund, but until expended, shall remain a part of the unemployment compensation fund. The commissioner shall maintain a separate record of the deposit, obligation, expenditure and return of funds so deposited. Any money so deposited which either will not be obligated within the period specified by the appropriation law or remains unobligated at the end of the period, and any money which has been obligated within the period but will not be expended, shall be returned promptly to the account of this state in the unemployment trust fund. [2011 c 4 § 4; 2006 c 13 § 7; 2005 c 133 § 6; 1999 c 36 § 1; 1983 1st ex.s. c 7 § 1; 1973 c 6 § 1; 1969 ex.s. c 201 § 1; 1959 c 170 § 2; 1945 c 35 § 62; Rem. Supp. 1945 § 9998-200. Prior: 1943 c 127 § 6; 1941 c 253 § 7.]

**Reviser's note:* RCW 50.29.025 was amended by 2011 c 4 § 16, 2011 c 3 § 3, 2009 c 3 § 14, and 2009 c 493 § 2, changing the subsection numbering.

Effective date—2011 c 4 §§ 1-6 and 16-21: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Findings—Intent—Conflict with federal requirements—Effective date—2005 c 133: See notes following RCW 50.20.120.

Additional notes found at www.leg.wa.gov

50.16.040 Management of funds upon discontinuance of federal unemployment trust fund. The provisions of this title, to the extent that they relate to the unemployment trust fund, shall be operative only so long as such unemployment trust fund continues to exist and so long as the secretary of the treasury of the United States of America continues to maintain for this state a separate book account of all funds deposited therein for this state for benefit purposes, together with this state's proportionate share of the earnings of such unemployment trust fund, from which no other state is permitted to make withdrawals. If and when such unemployment trust fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties or securities therein, belonging to the unemployment compensation fund of this state shall be transferred to the treasurer of the unemployment compensation fund, who shall hold, invest, transfer, sell, deposit, and release such moneys, properties, or securities in a manner approved by the commissioner, in accordance with the provisions of this title: PROVIDED, That such moneys shall be invested in the following readily marketable classes of securities: Bonds or other interest bearing obligations of the United States of America: AND PROVIDED FURTHER, That such investment shall at all times be made so that all the assets of the fund shall always be read-

ily convertible into cash when needed for the payment of benefits. The treasurer shall dispose of securities or other properties belonging to the unemployment compensation fund only under the direction of the commissioner. [1945 c 35 § 63; Rem. Supp. 1945 § 9998-201. Prior: 1941 c 253 § 7.]

50.16.050 Unemployment compensation administration fund. (1) There is hereby established a fund to be known as the unemployment compensation administration fund. Except as otherwise provided in this section, all moneys which are deposited or paid into this fund are hereby made available to the commissioner. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this title, and for no other purpose whatsoever. All moneys received from the United States of America, or any agency thereof, for said purpose pursuant to section 302 of the social security act, as amended, shall be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of this title. All moneys received from the United States employment service, United States department of labor, for said purpose pursuant to the act of congress approved June 6, 1933, as amended or supplemented by any other act of congress, shall be expended solely for the purposes and in the amounts found necessary by the secretary of labor for the proper and efficient administration of the public employment office system of this state. The unemployment compensation administration fund shall consist of all moneys received from the United States of America or any department or agency thereof, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered, and disbursed by the treasurer of the unemployment compensation fund under rules and regulations of the commissioner and none of the provisions of RCW 43.01.050 shall be applicable to this fund. The treasurer last named shall be the treasurer of the unemployment compensation administration fund and shall give a bond conditioned upon the faithful performance of his or her duties in connection with that fund. All sums recovered on the official bond for losses sustained by the unemployment compensation administration fund shall be deposited in said fund.

(2) Notwithstanding any provision of this section:

(a) All money requisitioned and deposited in this fund pursuant to RCW 50.16.030(6) shall remain part of the unemployment compensation fund and shall be used only in accordance with the conditions specified in RCW 50.16.030 (4), (5) and (6).

(b) All money deposited in this fund pursuant to RCW 50.38.065 shall be used only after appropriation and only for the purposes of RCW 50.38.060. [2010 c 8 § 13020; 1993 c 62 § 8; 1959 c 170 § 3; 1947 c 215 § 13; 1945 c 35 § 64; Rem. Supp. 1947 § 9998-202. Prior: 1941 c 253 § 7; 1939 c 214 § 11; 1937 c 162 § 13.]

Additional notes found at www.leg.wa.gov

50.16.060 Replacement of federal funds. The state of Washington hereby pledges that it will replace within a reasonable time any moneys paid to this state under Title III of the social security act, and the Wagner-Peyser act, which, because of any action or contingency, have been lost or have been expended for purposes other than, or in amounts in

excess of, those found necessary by the secretary of labor for the proper administration of the Washington employment security act. [1959 c 170 § 4; 1945 c 35 § 67; Rem. Supp. 1945 § 9998-205.]

50.16.070 Federal interest payment fund—Employer contributions—When payable—Maximum rate—Deduction from remuneration unlawful. 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. Except as appropriated for the fiscal biennium ending June 30, 1991, 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. [1989 1st ex.s. c 19 § 811; 1988 c 289 § 710; 1983 1st ex.s. c 13 § 7.]

Additional notes found at www.leg.wa.gov

50.16.080 Federal targeted jobs tax credit program—Administration—Processing fee—Deposit of fees. The cost of administering the federal targeted jobs tax credit program shall be fully borne by the employers requesting the credits. The commissioner shall establish the amount of the processing fee and procedures for collecting the fee. The commissioner shall establish the processing fee at a sufficient level to defray the costs of administering the federal targeted jobs tax credit program. The fee shall be established by the commissioner by rule. However, if federal funding is provided to finance such services, the commissioner shall revise or eliminate this fee based on the amount of federal funding received. Fees received for processing shall be deposited in a special account in the unemployment compensation administration fund. [1988 c 84 § 2.]

Legislative finding—1988 c 84: "The legislature finds that:

(1) The employment security department through the targeted jobs tax credit program has the responsibility to issue federal tax credit certifications

to Washington state employers. The tax credit certification allows the employer to claim a credit against federal income tax for wages paid during the first year to employees who qualify for the program.

(2) To the extent that funding is available, the department, through the federal targeted jobs tax credit program, provides service to employers in the form of technical assistance and training, program marketing, monitoring, and maintenance of records and processing of documents that may result in a certification which allows employers to claim a federal tax credit.

(3) The United States Congress through the Tax Reform Act of 1986 reauthorized the targeted jobs tax credit but did not include funds to cover the costs of processing employer requests for federal tax credit certifications.

(4) The state has a vital interest in the economic benefits employers realize from the targeted jobs tax credit because the economic competitiveness of Washington state is enhanced as tax credit savings are reinvested in the state's economy.

(5) The departments of corrections, social and health services, and veterans affairs, and the superintendent of public instruction, along with employment security and other state service providers, utilize the targeted jobs tax credit program as an incentive for employers to hire hard-to-place clients.

(6) Economically disadvantaged youth, Vietnam-era veterans, ex-felons, and vocational rehabilitation, supplemental security income, general assistance and AFDC recipients have an especially difficult time in obtaining employment." [1988 c 84 § 1.]

Additional notes found at www.leg.wa.gov

Chapter 50.20 RCW BENEFITS AND CLAIMS

Sections

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50.20.050	Disqualification for leaving work voluntarily without good cause (<i>as amended by 2009 c 493</i>).
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50.20.250	Self-employment assistance program—Finding—Department provides information to eligible individuals—Rules.

Environmental restoration job training: RCW 43.21J.060 and 43.21J.070.

50.20.010 Benefit eligibility conditions. (1) An unemployed individual shall be eligible to receive waiting period credits or benefits with respect to any week in his or her eligibility period only if the commissioner finds that:

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

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

(c) He or she is able to work, and is available for work in any trade, occupation, profession, or business for which he or she is reasonably fitted.

(i) To be available for work, an individual must be ready, able, and willing, immediately to accept any suitable work which may be offered to him or her and must be actively seeking work pursuant to customary trade practices and through other methods when so directed by the commissioner or the commissioner's agents. If a labor agreement or dispatch rules apply, customary trade practices must be in accordance with the applicable agreement or rules.

(ii) For the purposes of this subsection, "customary trade practices" includes compliance with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council;

(d) He or she has been unemployed for a waiting period of one week;

(e) He or she participates in reemployment services if the individual has been referred to reemployment services pursuant to the profiling system established by the commissioner under RCW 50.20.011, unless the commissioner determines that:

(i) The individual has completed such services; or

(ii) There is justifiable cause for the claimant's failure to participate in such services; and

(f) As to weeks beginning after March 31, 1981, which fall within an extended benefit period as defined in RCW 50.22.010, the individual meets the terms and conditions of RCW 50.22.020 with respect to benefits claimed in excess of twenty-six times the individual's weekly benefit amount.

(2) An individual's eligibility period for regular benefits shall be coincident to his or her established benefit year. An

individual's eligibility period for additional or extended benefits shall be the periods prescribed elsewhere in this title for such benefits. [2019 c 50 § 1; 2006 c 13 § 10. Prior: 2003 2nd sp.s. c 4 § 3; 1995 c 381 § 1; 1981 c 35 § 3; 1973 c 73 § 6; 1970 ex.s. c 2 § 4; 1959 c 266 § 3; 1953 ex.s. c 8 § 7; 1951 c 265 § 9; 1951 c 215 § 11; 1949 c 214 § 9; 1945 c 35 § 68; Rem. Supp. 1949 § 9998-206; prior: 1943 c 127 § 2; 1941 c 253 §§ 1, 2; 1939 c 214 § 2; 1937 c 162 § 4.]

Applicability—2019 c 50 §§ 1-3: "Sections 1 through 3 of this act apply to claimed weeks of unemployment on or after July 5, 2020." [2019 c 50 § 4.]

Government or retirement pension plan payments as remuneration or wages—Recovery of excess over benefits allowable, limitations: RCW 50.04.323.

Additional notes found at www.leg.wa.gov

50.20.011 Profiling system to identify individuals likely to exhaust benefits—Confidentiality of information—Penalty. (1) The commissioner shall establish and use a profiling system for new claimants for regular compensation under this title that identifies permanently separated workers who are likely to exhaust regular compensation and will need job search assistance services to make a successful transition to new employment. The profiling system shall use a combination of individual characteristics and labor market information to assign each individual a unique probability of benefit exhaustion. Individuals identified as likely to exhaust benefits shall be referred to reemployment services, such as job search assistance services, to the extent such services are available at public expense.

(2) The profiling system shall include collection and review of follow-up information relating to the services received by individuals under this section and the employment outcomes for the individuals following receipt of the services. The information shall be used in making profiling identifications.

(3) In carrying out reviews of individuals receiving services, the department may contract with public or private entities and may disclose information or records necessary to permit contracting entities to assist in the operation and management of department functions. Any information or records disclosed to public or private entities shall be used solely for the purposes for which the information was disclosed and the entity shall be bound by the same rules of privacy and confidentiality as department employees. The misuse or unauthorized disclosure of information or records deemed private and confidential under chapter 50.13 RCW by any person or organization to which access is permitted by this section shall subject the person or organization to a civil penalty of five thousand dollars and other applicable sanctions under state and federal law. Suit to enforce this section shall be brought by the attorney general and the amount of any penalties collected shall be paid into the employment security department administrative contingency fund. The attorney general may recover reasonable attorneys' fees for any action brought to enforce this section. [1995 c 381 § 2.]

Additional notes found at www.leg.wa.gov

50.20.012 Rules—1995 c 381. The commissioner may adopt rules as necessary to implement the 1995 c 381 §§ 1 and *3 amendments to RCW 50.20.010 and 50.20.043 and

(2019 Ed.)

50.20.011, including but not limited to definitions, eligibility standards, program review criteria and procedures, and provisions necessary to comply with applicable federal laws and regulations that are a condition to receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [1995 c 381 § 4.]

***Reviser's note:** Section 3 of this act (amendment to RCW 50.20.043) was vetoed by the governor.

Additional notes found at www.leg.wa.gov

50.20.020 Waiting period credit limitation. No week shall be counted as a waiting period week,

(1) if benefits have been paid with respect thereto, and

(2) unless the individual was otherwise eligible for benefits with respect thereto, and

(3) unless it occurs within the benefit year which includes the week with respect to which he or she claims payment of benefits. [2010 c 8 § 13021; 1949 c 214 § 10; 1945 c 35 § 69; Rem. Supp. 1949 § 9998-207.]

50.20.041 Health care professionals who have contracted hepatitis C—Training. (1) Credentialed health care professionals listed in RCW 18.130.040 shall be deemed to be dislocated workers for the purpose of commissioner approval of training under RCW 50.20.043 if they are unemployed as a result of contracting hepatitis C in the course of employment and are unable to continue to work in their profession because of a significant risk that such work would pose to other persons and that risk cannot be eliminated.

(2) For purposes of subsection (1) of this section, a health care professional who was employed on a full-time basis in their profession shall be presumed to have contracted hepatitis C in the course of employment. This presumption may be rebutted by a preponderance of the evidence that demonstrates that the health care professional contracted hepatitis C as a result of activities or circumstances not related to employment. [2003 c 273 § 4.]

50.20.042 Unemployed aerospace workers—Training. Aerospace workers unemployed as the result of downsizing and restructuring of the aerospace industry will be deemed to be dislocated workers for the purpose of commissioner approval of training under RCW 50.20.043. [1993 c 226 § 7.]

Additional notes found at www.leg.wa.gov

50.20.043 Training provision. No otherwise eligible individual shall be denied benefits for any week because the individual is in training with the approval of the commissioner, nor shall such individual be denied benefits with respect to any week in which the individual is satisfactorily progressing in a training program with the approval of the commissioner by reason of the application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or failure to apply for or refusal to accept suitable work.

An individual who the commissioner determines to be a dislocated worker as defined by RCW 50.04.075 and who is satisfactorily progressing in a training program approved by the commissioner shall be considered to be in training with

the approval of the commissioner. [2003 2nd sp.s. c 4 § 30; 1985 c 40 § 1; 1984 c 181 § 2; 1971 c 3 § 12.]

Additional notes found at www.leg.wa.gov

50.20.044 Ineligibility for benefits for failure to attend job search workshop or training course. If an otherwise eligible individual fails without good cause, as determined by the commissioner under rules prescribed by the commissioner, to attend a job search workshop or a training or retraining course when directed by the department and such workshop or course is available at public expense, such individual shall not be eligible for benefits with respect to any week in which such failure occurred. [1984 c 205 § 8.]

Additional notes found at www.leg.wa.gov

50.20.050 Disqualification for leaving work voluntarily without good cause (as amended by 2009 c 247). (1) With respect to claims that have an effective date before January 4, 2004:

(a) 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 for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

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

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of 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: PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;

(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.

(c) In determining under this subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, 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 and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, 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 unreasonable hardship on the individual where he or she required to continue in the employment.

(d) Subsection (1)(a) and (c) 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 beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount 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. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.

(2) With respect to claims that have an effective date on or after January 4, 2004:

(a) 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 for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual is not disqualified from benefits under (a) of this subsection when:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii)(A) With respect to claims that have an effective date before July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (1) Is outside the existing labor market area; and (2) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (II) remained employed as long as was reasonable prior to the move;

(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

(3) Notwithstanding subsection (2) of this section, for separations occurring on or after July 26, 2009, an individual who was simultaneously employed in full-time employment and part-time employment and is otherwise eligible for benefits from the loss of the full-time employment shall not be disqualified from benefits because the individual:

(a) Voluntarily quit the part-time employment before the loss of the full-time employment; and

(b) Did not have prior knowledge that he or she would be separated from full-time employment. [2009 c 247 § 1; 2008 c 323 § 1; 2006 c 13 § 2. Prior: 2006 c 12 § 1; 2003 2nd sp.s. c 4 § 4; 2002 c 8 § 1; 2000 c 2 § 12; 1993 c 483 § 8; 1982 1st ex.s. c 18 § 6; 1981 c 35 § 4; 1980 c 74 § 5; 1977 ex.s. c 33 § 4; 1970 ex.s. c 2 § 21; 1953 ex.s. c 8 § 8; 1951 c 215 § 12; 1949 c 214 § 12; 1947 c 215 § 15; 1945 c 35 § 73; Rem. Supp. 1949 § 9998-211; prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

50.20.050 Disqualification for leaving work voluntarily without good cause (as amended by 2009 c 493). (1) ~~(With respect to claims that have an effective date before January 4, 2004:~~

(a) ~~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 for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.~~

~~The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:~~

~~(i) The duration of the work;~~

~~(ii) The extent of direction and control by the employer over the work;~~

~~and~~

~~(iii) The level of skill required for the work in light of the individual's training and experience.~~

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

~~(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;~~

~~(ii) The separation was because of the illness or disability of the claimant or the death, illness, or disability of 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; PROVIDED, That these precautions need not have been taken when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system;~~

~~(iii) He or she has left work to relocate for the spouse's employment that is due to an employer-initiated mandatory transfer that is outside the existing labor market area if the claimant remained employed as long as was reasonable prior to the move; or~~

~~(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110.~~

~~(e) In determining under this subsection whether an individual has left work voluntarily without good cause, the commissioner shall only consider work-connected factors such as the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness for the work, 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 and where, in the judgment of the department, the distance is customarily traveled by workers in the individual's job classification and labor market, 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 unreasonable hardship on the individual were he or she required to continue in the employment.~~

~~(d) Subsection (1)(a) and (c) 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 beginning with the first day of the calendar week in which he or she left work and thereafter for seven calendar weeks and until he or she has requalified, either by obtaining bona fide work in employment covered by this title and earning wages in that employment equal to seven times his or her weekly benefit amount 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. This subsection does not apply to individuals covered by (b)(ii) or (iii) of this subsection.~~

~~(2)) With respect to claims that have an effective date on or after January 4, 2004, and for separations that occur before September 6, 2009:~~

~~(a) 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 for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount.~~

~~The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:~~

~~(i) The duration of the work;~~

~~(ii) The extent of direction and control by the employer over the work;~~

~~and~~

~~(iii) The level of skill required for the work in light of the individual's training and experience.~~

~~(b) An individual is not disqualified from benefits under (a) of this subsection when:~~

~~(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;~~

~~(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:~~

~~(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and~~

~~(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;~~

~~(iii)(A) With respect to claims that have an effective date before July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer: (1) Is outside the existing labor market area; and (2) is in Washington or another state that, pursuant to statute, does not consider such an individual to have left work voluntarily without good cause; and (II) remained employed as long as was reasonable prior to the move;~~

~~(B) With respect to claims that have an effective date on or after July 2, 2006, he or she: (I) Left work to relocate for the spouse's employment that, due to a mandatory military transfer, is outside the existing labor market area; and (II) remained employed as long as was reasonable prior to the move;~~

~~(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;~~

~~(v) The individual's usual compensation was reduced by twenty-five percent or more;~~

~~(vi) The individual's usual hours were reduced by twenty-five percent or more;~~

~~(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;~~

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program.

(2) With respect to separations that occur on or after September 6, 2009:

(a) 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 for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount. Good cause reasons to leave work are limited to reasons listed in (b) of this subsection.

The disqualification shall continue if the work obtained is a mere sham to qualify for benefits and is not bona fide work. In determining whether work is of a bona fide nature, the commissioner shall consider factors including but not limited to the following:

(i) The duration of the work;

(ii) The extent of direction and control by the employer over the work; and

(iii) The level of skill required for the work in light of the individual's training and experience.

(b) An individual has good cause and is not disqualified from benefits under (a) of this subsection only under the following circumstances:

(i) He or she has left work to accept a bona fide offer of bona fide work as described in (a) of this subsection;

(ii) The separation was necessary because of the illness or disability of the claimant or the death, illness, or disability of a member of the claimant's immediate family if:

(A) The claimant pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, by having promptly notified the employer of the reason for the absence, and by having promptly requested reemployment when again able to assume employment. These alternatives need not be pursued, however, when they would have been a futile act, including those instances when the futility of the act was a result of a recognized labor/management dispatch system; and

(B) The claimant terminated his or her employment status, and is not entitled to be reinstated to the same position or a comparable or similar position;

(iii) The claimant: (A) Left work to relocate for the employment of a spouse or domestic partner that is outside the existing labor market area; and (B) remained employed as long as was reasonable prior to the move;

(iv) The separation was necessary to protect the claimant or the claimant's immediate family members from domestic violence, as defined in RCW 26.50.010, or stalking, as defined in RCW 9A.46.110;

(v) The individual's usual compensation was reduced by twenty-five percent or more;

(vi) The individual's usual hours were reduced by twenty-five percent or more;

(vii) The individual's worksite changed, such change caused a material increase in distance or difficulty of travel, and, after the change, the commute was greater than is customary for workers in the individual's job classification and labor market;

(viii) The individual's worksite safety deteriorated, the individual reported such safety deterioration to the employer, and the employer failed to correct the hazards within a reasonable period of time;

(ix) The individual left work because of illegal activities in the individual's worksite, the individual reported such activities to the employer, and the employer failed to end such activities within a reasonable period of time;

(x) The individual's usual work was changed to work that violates the individual's religious convictions or sincere moral beliefs; or

(xi) The individual left work to enter an apprenticeship program approved by the Washington state apprenticeship training council. Benefits are payable beginning Sunday of the week prior to the week in which the individual begins active participation in the apprenticeship program. [2009 c 493 § 3; 2008 c 323 § 1; 2006 c 13 § 2. Prior: 2006 c 12 § 1; 2003 2nd sp.s. c 4 § 4; 2002 c 8 § 1; 2000 c 2 § 12; 1993 c 483 § 8; 1982 1st ex.s. c 18 § 6; 1981 c 35 § 4; 1980 c 74 § 5; 1977 ex.s. c 33 § 4; 1970 ex.s. c 2 § 21; 1953

ex.s. c 8 § 8; 1951 c 215 § 12; 1949 c 214 § 12; 1947 c 215 § 15; 1945 c 35 § 73; Rem. Supp. 1949 § 9998-211; prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Reviser's note: RCW 50.20.050 was amended twice during the 2009 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Conflict with federal requirements—2009 c 493: See note following RCW 50.29.021.

Additional notes found at www.leg.wa.gov

50.20.060 Disqualification from benefits due to misconduct. With respect to claims that have an effective date before January 4, 2004, 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 for seven calendar weeks and until he or she has obtained bona fide work in employment covered by this title and earned wages in that employment equal to seven times his or her weekly benefit amount. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct. [2006 c 13 § 11. Prior: 2003 2nd sp.s. c 4 § 7; 2000 c 2 § 13; 1993 c 483 § 9; 1982 1st ex.s. c 18 § 16; 1977 ex.s. c 33 § 5; 1970 ex.s. c 2 § 22; 1953 ex.s. c 8 § 9; 1951 c 215 § 13; 1949 c 214 § 13; 1947 c 215 § 16; 1945 c 35 § 74; Rem. Supp. 1949 § 9998-212; prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Additional notes found at www.leg.wa.gov

50.20.065 Cancellation of hourly wage credits due to felony or gross misdemeanor. With respect to claims that have an effective date before January 4, 2004:

(1) An individual who has been discharged from his or her work because of a felony or gross misdemeanor of which he or she has been convicted, or has admitted committing to a competent authority, and that is connected with his or her work shall have all hourly wage credits based on that employment canceled.

(2) The employer shall notify the department of such an admission or conviction, not later than six months following the admission or conviction.

(3) The claimant shall disclose any conviction of the claimant of a work-connected felony or gross misdemeanor occurring in the previous two years to the department at the time of application for benefits.

(4) All benefits that are paid in error based on wage/hour credits that should have been removed from the claimant's base year are recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other provisions of this title. [2006 c 13 § 12. Prior: 2003 2nd sp.s. c 4 § 8; 1993 c 483 § 11.]

Additional notes found at www.leg.wa.gov

50.20.066 Disqualification from benefits due to misconduct—Cancellation of hourly wage credits due to gross misconduct. With respect to claims that have an effective date on or after January 4, 2004:

(1) 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 for ten calendar weeks and until he or she has obtained bona fide work in

employment covered by this title and earned wages in that employment equal to ten times his or her weekly benefit amount. Alcoholism shall not constitute a defense to disqualification from benefits due to misconduct.

(2) An individual who has been discharged from his or her work because of gross misconduct shall have all hourly wage credits based on that employment or six hundred eighty hours of wage credits, whichever is greater, canceled.

(3) The employer shall notify the department of a felony or gross misdemeanor of which an individual has been convicted, or has admitted committing to a competent authority, not later than six months following the admission or conviction.

(4) The claimant shall disclose any conviction of the claimant of a work-connected felony or gross misdemeanor occurring in the previous two years to the department at the time of application for benefits.

(5) All benefits that are paid in error based on this section are recoverable, notwithstanding RCW 50.20.190 or 50.24.020 or any other provisions of this title. [2006 c 13 § 13. Prior: 2003 2nd sp.s. c 4 § 9.]

Additional notes found at www.leg.wa.gov

50.20.070 Disqualification for misrepresentation—Penalties. (1) With respect to determinations delivered or mailed before January 1, 2008, an individual is disqualified for benefits for any week he or she has knowingly made a false statement or representation involving a material fact or knowingly failed to report a material fact and, as a result, has obtained or attempted to obtain any benefits under the provisions of this title, and for an additional twenty-six weeks beginning with the first week for which he or she completes 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. However, 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.

(2) With respect to determinations delivered or mailed on or after January 1, 2008:

(a) An individual is disqualified for benefits for any week he or she has knowingly made a false statement or representation involving a material fact or knowingly failed to report a material fact and, as a result, has obtained or attempted to obtain any benefits under the provisions of this title;

(b) An individual disqualified for benefits under this subsection for the first time is also:

(i) Disqualified for an additional twenty-six weeks beginning with the Sunday of the week in which the determination is mailed or delivered; and

(ii) With respect to determinations delivered or mailed on or after October 20, 2013, subject to an additional penalty of fifteen percent of the amount of benefits overpaid or deemed overpaid;

(c) An individual disqualified for benefits under this subsection for the second time is also disqualified for an additional fifty-two weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of twenty-five percent of the amount of benefits overpaid or deemed overpaid;

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(d) An individual disqualified for benefits under this subsection a third time and any time thereafter is also disqualified for an additional one hundred four weeks beginning with the Sunday of the week in which the determination is mailed or delivered, and is subject to an additional penalty of fifty percent of the amount of benefits overpaid or deemed overpaid.

(3) All penalties collected under this section must be expended for the proper administration of this title as authorized under RCW 50.16.010 and for no other purposes.

(4) All overpayments and penalties established by such determination of disqualification must be collected as otherwise provided by this title. [2013 c 189 § 2; 2007 c 146 § 7; 1973 1st ex.s. c 158 § 5; 1953 ex.s. c 8 § 10; 1951 c 265 § 10; 1949 c 214 § 14; 1947 c 215 § 17; 1945 c 35 § 75; Rem. Supp. 1949 § 9998-213. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Conflict with federal requirements—Effective date—2013 c 189: See notes following RCW 50.16.010.

Additional notes found at www.leg.wa.gov

50.20.080 Disqualification for refusal to work. An individual is disqualified for benefits, if the commissioner finds that the individual has failed without good cause, either to apply for available, suitable work when so directed by the employment office or the commissioner, or to accept suitable work when offered the individual, or to return to his or her customary self-employment (if any) when so directed by the commissioner. Such disqualification shall begin with the week of the refusal and thereafter for seven calendar weeks and continue until the individual has obtained bona fide work in employment covered by this title and earned wages in that employment of not less than seven times his or her suspended weekly benefit amount. [2000 c 2 § 14; 1993 c 483 § 10; 1959 c 321 § 1; 1953 ex.s. c 8 § 11; 1951 c 215 § 14; 1949 c 214 § 15; 1945 c 35 § 76; Rem. Supp. 1949 § 9998-214. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Additional notes found at www.leg.wa.gov

50.20.085 Disqualification for receipt of industrial insurance disability benefits. An individual is disqualified from benefits with respect to any day or days for which he or she is receiving, has received, or will receive compensation under RCW 51.32.060 or 51.32.090. [1991 c 117 § 2; 1986 c 75 § 1.]

Additional notes found at www.leg.wa.gov

50.20.090 Strike or lockout disqualification—When inapplicable. (1) An individual shall be disqualified for benefits for any week with respect to which the commissioner finds that the individual's unemployment is:

(a) Due to a strike at the factory, establishment, or other premises at which the individual is or was last employed; or

(b) Due to a lockout by his or her employer who is a member of a multi-employer bargaining unit and who has locked out the employees at the factory, establishment, or other premises at which the individual is or was last employed after one member of the multi-employer bargaining unit has been struck by its employees as a result of the multi-employer bargaining process.

(2) Subsection (1) of this section shall not apply if it is shown to the satisfaction of the commissioner that:

(a) The individual is not participating in or financing or directly interested in the strike or lockout that caused the individual's unemployment; and

(b) The individual does not belong to a grade or class of workers of which, immediately before the commencement of the strike or lockout, there were members employed at the premises at which the strike or lockout occurs, any of whom are participating in or financing or directly interested in the strike or lockout: PROVIDED, That if in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subdivision, be deemed to be a separate factory, establishment, or other premises.

(3) Any disqualification imposed under this section shall end when the strike or lockout is terminated. [1988 c 83 § 1; 1987 c 2 § 1; 1953 ex.s. c 8 § 12; 1945 c 35 § 77; Rem. Supp. 1945 § 9998-215. Prior: 1943 c 127 § 3; 1941 c 253 § 3; 1939 c 214 § 3; 1937 c 162 § 5.]

Additional notes found at www.leg.wa.gov

50.20.095 Disqualification for attending school or institution of higher education. 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 term commencing with the first week of such 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 twelve or more hours of scholastic instruction per week: PROVIDED, That registration for less than twelve hours 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 50.44.037.

This disqualification shall not apply to any individual who:

(1) Is in approved training within the meaning of RCW 50.20.043;

(2) Is in an approved self-employment assistance program under RCW 50.20.250; or

(3) 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. [2007 c 248 § 2; 1980 c 74 § 4; 1977 ex.s. c 33 § 8.]

Additional notes found at www.leg.wa.gov

50.20.098 Services performed by alien. (1) Benefits shall not be paid on the basis of services performed by an alien unless the alien is an individual who was lawfully admitted for permanent residence, was lawfully present for purposes of performing such services, or otherwise was per-

manently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of 8 U.S.C. Sec. 1182(d)(5): PROVIDED, That any modifications to 26 U.S.C. Sec. 3304(a)(14) as provided by PL 94-566 which specify other conditions or other effective date than stated herein for the denial of benefits based on services performed by aliens and which modifications are required to be implemented under state law as a condition for full tax credit against the tax imposed by 26 U.S.C. Sec. 3301 shall be deemed applicable under this section.

(2) Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits.

(3) In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to the individual are not payable because of his or her alien status shall be made except upon a preponderance of the evidence. [1993 c 58 § 2; 1989 c 92 § 1; 1977 ex.s. c 292 § 10.]

Additional notes found at www.leg.wa.gov

50.20.099 Training benefits—Eligibility to work in the United States. (1) To ensure that unemployment insurance benefits are paid in accordance with RCW 50.20.098, the employment security department shall verify that an individual is eligible to work in the United States before the individual receives training benefits under RCW 50.22.150 or 50.22.155.

(2) By July 1, 2002, the employment security department shall:

(a) Develop and implement an effective method for determining, where appropriate, eligibility to work in the United States for individuals applying for unemployment benefits under this title;

(b) Review verification systems developed by federal agencies for verifying a person's eligibility to receive unemployment benefits under this title and evaluate the effectiveness of these systems for use in this state; and

(c) Report its initial findings to the legislature by September 1, 2000, and its final report by July 1, 2002.

(3) Where federal law prohibits the conditioning of unemployment benefits on a verification of an individual's status as a qualified or authorized alien, the requirements of this section shall not apply. [2011 c 4 § 7; 2000 c 2 § 10.]

Contingent effective date—2011 c 4 §§ 7-15: "Sections 7 through 15 of this act take effect July 1, 2012, unless the United States department of labor determines by October 1, 2011, that this act does not meet the requirements of section 2003 of the federal American recovery and reinvestment act of 2009 for unemployment insurance modernization incentive funding." [2011 c 4 § 24.] The United States department of labor determined that this act meets the requirements of section 2003 of the federal American recovery and reinvestment act of 2009.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Additional notes found at www.leg.wa.gov

50.20.100 Suitable work factors. (1) 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, the commissioner shall also consider the degree of risk involved to the individual's health, safety, and morals, the individual's physical fitness, the individual's length of unemployment and prospects for securing local work in the individual's customary occupation, the distance of the available work from the individual's residence, and such other factors as the commissioner may deem pertinent, including state and national emergencies.

(2) For individuals with base year work experience in agricultural labor, any agricultural labor available from any employer shall be deemed suitable unless it meets conditions in RCW 50.20.110 or the commissioner finds elements of specific work opportunity unsuitable for a particular individual.

(3) For part-time workers as defined in RCW 50.20.119, suitable work includes suitable work under subsection (1) of this section that is for seventeen or fewer hours per week.

(4) For individuals who have qualified for unemployment compensation benefits under *RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, an evaluation of the suitability of the work must consider the individual's need to address the physical, psychological, legal, and other effects of domestic violence or stalking. [2006 c 13 § 14. Prior: 2004 c 110 § 2; 2003 2nd sp.s. c 4 § 13; 2002 c 8 § 2; 1989 c 380 § 80; 1977 ex.s. c 33 § 6; 1973 1st ex.s. c 158 § 6; 1945 c 35 § 78; Rem. Supp. 1945 § 9998-216.]

*Reviser's note: RCW 50.20.050 was amended twice during the 2009 legislative session, changing the subsection numbering.

Additional notes found at www.leg.wa.gov

50.20.110 Suitable work exceptions. Notwithstanding any other provisions of this title, no work shall be deemed to be suitable and benefits shall not be denied under this title to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout, or other labor dispute; or

(2) if the remuneration, hours, or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality; or

(3) if as a condition of being employed the individual would be required by the employing unit to join a company union or to resign from or refrain from joining any bona fide labor organization. [1945 c 35 § 79; Rem. Supp. 1945 § 9998-217.]

50.20.113 Unemployment of sport or athletic event participant during period between sport seasons. Benefits shall not be paid to any individual on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so participate, for any week which commences during the period between two successive sport seasons (or similar periods) if the individual performed the services in the first of the seasons (or similar periods) and there is a reasonable assurance that the individual will perform the services in the latter of the seasons (or similar periods). [1977 ex.s. c 292 § 6.]

(2019 Ed.)

Additional notes found at www.leg.wa.gov

50.20.115 Unemployment due to vacation. When an unemployed individual is qualified for receipt of unemployment compensation benefits by the specific provisions of RCW 50.20.010, 50.20.120 and 50.20.130, and such individual is not specifically disqualified from receiving such benefits by reason of the provisions of RCW 50.20.090, 50.20.050, 50.20.060, 50.20.070 or 50.20.080, he [or she] shall, for all purposes of the unemployment compensation act, be deemed to be involuntarily unemployed and entitled to unemployment compensation benefits: PROVIDED, That the cessation of operations by an employer for the purpose of granting vacations, whether by union contract or other reasons, shall in no manner be construed to be a voluntary quit nor a voluntary unemployment on the part of the employees. [1983 c 3 § 158; 1951 c 265 § 12.]

Additional notes found at www.leg.wa.gov

50.20.117 Jury service. No otherwise eligible individual shall be denied benefits for any week because he or she is serving as a prospective or impaneled juror in any court of this state. Compensation received for service as a juror shall not be considered wages subject to contributions under this title nor shall such compensation be considered in determining base-year wages, but it shall be considered remuneration for purposes of a deduction from benefits under RCW 50.20.130. [1979 ex.s. c 135 § 6.]

Additional notes found at www.leg.wa.gov

50.20.118 Unemployment while in approved training. (1) Notwithstanding any other provision of this chapter, an otherwise eligible individual shall not be denied benefits for any week because he or she is in training approved under section 236(a)(1) of the Trade Act of 1974, P.L. 93-618, nor may that individual be denied benefits for any such week by reason of leaving work which is not suitable employment to enter such training, or for failure to meet any requirement of federal or state law for any such week which relates to the individual's availability for work, active search for work, or refusal to accept work.

(2) For the purposes of this section, "suitable employment" means, with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment (as described for the purposes of the Trade Act of 1974, P.L. 93-618), if the wages for such work are not less than eighty percent of the individual's average weekly wage as determined for the purposes of the Trade Act of 1974, P.L. 93-618. [1982 1st ex.s. c 18 § 7.]

Additional notes found at www.leg.wa.gov

50.20.119 Part-time workers. (1) With respect to claims that have an effective date on or after January 2, 2005, an otherwise eligible individual may not be denied benefits for any week because the individual is a part-time worker and is available for, seeks, applies for, or accepts only work of seventeen or fewer hours per week by reason of the application of RCW 50.20.010(1)(c), 50.20.080, or 50.22.020(1) relating to availability for work and active search for work, or failure to apply for or refusal to accept suitable work.

[Title 50 RCW—page 39]

(2) For purposes of this section, "part-time worker" means an individual who: (a) Earned wages in "employment" in at least forty weeks in the individual's base year; and (b) did not earn wages in "employment" in more than seventeen hours per week in any weeks in the individual's base year. [2006 c 13 § 15. Prior: 2003 2nd sp.s. c 4 § 12.]

Additional notes found at www.leg.wa.gov

50.20.120 Amount of benefits. Except as provided in RCW 50.20.1201 and 50.20.1202, benefits shall be payable as provided in this section.

(1) For claims with an effective date on or after April 4, 2004, benefits shall be payable to any eligible individual during the individual's benefit year in a maximum amount equal to the lesser of twenty-six times the weekly benefit amount, as determined in subsection (2) of this section, or one-third of the individual's base year wages under this title.

(2) For claims with an effective date on or after April 24, 2005, an individual's weekly benefit amount shall be an amount equal to three and eighty-five one-hundredths percent of the average quarterly wages of the individual's total wages during the two quarters of the individual's base year in which such total wages were highest.

(3) The maximum and minimum amounts 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.

(a) The maximum amount payable weekly shall be either four hundred ninety-six dollars or sixty-three percent of the "average weekly wage" for the calendar year preceding such June 30th, whichever is greater.

(b) The minimum amount payable weekly shall be fifteen percent of the "average weekly wage" for the calendar year preceding such June 30th.

(4) If any weekly benefit, maximum benefit, or minimum benefit amount computed herein is not a multiple of one dollar, it shall be reduced to the next lower multiple of one dollar. [2011 c 4 § 2; 2009 c 3 § 3; 2006 c 13 § 1; 2005 c 133 § 3; 2003 2nd sp.s. c 4 § 11; 2002 c 149 § 4; 1993 c 483 § 12; 1984 c 205 § 1; 1983 1st ex.s. c 23 § 11; 1981 c 35 § 5; 1980 c 74 § 3; 1977 ex.s. c 33 § 7; 1970 ex.s. c 2 § 5; 1959 c 321 § 2; 1955 c 209 § 1; 1951 c 265 § 11; 1949 c 214 § 16; 1945 c 35 § 80; Rem. Supp. 1949 § 9998-218. Prior: 1943 c 127 § 1; 1941 c 253 § 1; 1939 c 214 § 1; 1937 c 162 § 3.]

Effective date—2011 c 4 §§ 1-6 and 16-21: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Short title—2009 c 3: "This act may be known and cited as the economic security act of 2009." [2009 c 3 § 1.]

Effective date—2009 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect April 5, 2009." [2009 c 3 § 15.]

Conflict with federal requirements—2009 c 3: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting

of federal unemployment tax credits to employers in this state." [2009 c 3 § 16.]

Findings—Intent—2005 c 133: "The legislature finds that the unemployment insurance system was created to set aside unemployment reserves to be used for the benefit of persons who are unemployed through no fault of their own and to maintain purchasing power and limit the social consequences of unemployment. The legislature further finds that the system is falling short of these goals by failing to recognize the importance of applying liberal construction for the purpose of reducing involuntary unemployment, and the suffering caused by it, to the minimum, and by failing to provide equitable benefits to unemployed workers. The legislature also recognizes the desirability of managing the system to take into account the goal of reducing costs to foster a competitive business climate. The legislature intends to adjust the balance between these goals by reinstating the requirement for liberal construction and making other adjustments in the system that will allow reasonable improvements in benefit equity, including reinstating a weekly benefit calculation based on the wages in the two quarters of the claimant's base year in which wages were the highest. The legislature finds that these adjustments are critical to the health and welfare of unemployed workers, and to the purchasing power essential to the economic health and welfare of communities and the state, and should be implemented as soon as feasible." [2005 c 133 § 1.]

Additional notes found at www.leg.wa.gov

50.20.1201 Amount of benefits—Applicable May 3, 2009, for claims effective before, on, or after May 3, 2009, through January 2, 2010. (1) This section applies beginning May 3, 2009.

(2)(a) For claims with an effective date before May 3, 2009, in weeks of unemployment beginning on or after May 3, 2009, an individual's weekly benefit amount shall be the amount established under RCW 50.20.120 and subsection (3) of this section plus an additional forty-five dollars. For individuals who have a balance of regular unemployment benefits available, the weekly benefit amount under this subsection (2)(a) is payable for all remaining weeks of regular, extended, emergency, supplemental, or additional benefits on that claim. For individuals who have exhausted regular benefits but have a balance of training benefits available as provided in RCW 50.22.155 or 50.22.150, the weekly benefit amount under this subsection (2)(a) is payable for all remaining weeks of training benefits, but not for weeks of extended, emergency, supplemental, or additional benefits on that claim unless specifically authorized under federal or state law.

(b) For claims with an effective date on or after May 3, 2009, and before January 3, 2010, an individual's weekly benefit amount shall be the amount established under RCW 50.20.120 and subsection (3) of this section plus an additional forty-five dollars. The weekly benefit amount under this subsection (2)(b) is payable for all weeks of regular, extended, emergency, supplemental, or additional benefits on that claim.

(3)(a) For benefit years beginning before May 3, 2009, in weeks of unemployment beginning on or after May 3, 2009, the minimum amount payable weekly shall be one hundred fifty-five dollars. For individuals who have a balance of regular unemployment benefits available, the minimum amount payable weekly under this subsection (3)(a) is payable for all remaining weeks of regular, extended, emergency, supplemental, or additional benefits on that claim. For individuals who have exhausted regular benefits but have a balance of training benefits available as provided in RCW 50.22.155 or 50.22.150, the minimum amount payable weekly under this subsection (3)(a) is payable for all remaining weeks of training benefits, but not for weeks of extended, emergency, sup-

plemental, or additional benefits on that claim unless specifically authorized under federal or state law.

(b) For benefit years beginning on or after May 3, 2009, and before January 3, 2010, the minimum amount payable weekly shall be one hundred fifty-five dollars. The minimum amount payable weekly under this subsection (3)(b) is payable for all weeks of regular, extended, emergency, supplemental, or additional benefits on that claim.

(4) The weekly benefit amounts and the minimum amounts payable weekly under this section shall increase the maximum benefits payable to the individual under RCW 50.20.120(1) by a corresponding dollar amount.

(5) The weekly benefit amounts under this section shall increase the maximum amount payable weekly, irrespective of the provisions of RCW 50.20.120(3).

(6) Payment of benefits to individuals whose weekly benefit amounts are increased under this section shall be subject to the same terms and conditions under this title that apply to the payment of benefits to individuals whose benefit amounts are established under RCW 50.20.120.

(7) This section does not apply to claims with an effective date on or after January 3, 2010. [2009 c 3 § 2.]

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.20.1202 Additional temporary benefit increase.

(1) Except as provided for in subsection (3) of this section, for claims with an effective date on or after March 6, 2011, and before November 6, 2011, an individual's weekly benefit amount shall be the amount established under RCW 50.20.120 plus an additional temporary benefit increase of twenty-five dollars. The weekly benefit amount under this section:

(a) Is payable for all weeks of regular, extended, emergency, supplemental, or additional benefits on that claim;

(b) Shall increase the maximum benefits payable to the individual under RCW 50.20.120(1) by a corresponding dollar amount; and

(c) Shall increase the maximum amount payable weekly and the minimum amount payable weekly, irrespective of the provisions of RCW 50.20.120(3).

(2) Payment of benefits to individuals whose weekly benefit amounts are increased under this section shall be subject to the same terms and conditions under this title that apply to the payment of benefits to individuals whose benefit amounts are established under RCW 50.20.120.

(3) The department must calculate the total amount of temporary benefit increases paid under subsection (1) of this section.

(a) In calculating the total amount of temporary benefit increases, weeks of emergency unemployment compensation and extended benefits shall not be considered.

(b) Except as provided for in (c) of this subsection, when the total amount of temporary benefit increases for all weeks equals sixty-eight million dollars, the temporary benefit increase under subsection (1) of this section may not be paid for any additional weeks. An individual's maximum benefits payable, maximum amount payable weekly, or the minimum amount payable weekly must be adjusted accordingly.

(c) An individual receiving emergency unemployment compensation or extended benefits under this section shall

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continue to receive the temporary benefit increase for all weeks of emergency unemployment compensation or extended benefits. [2011 c 4 § 1.]

Effective date—2011 c 4 §§ 1-6 and 16-21: "Sections 1 through 6 and 16 through 21 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and take effect immediately [February 11, 2011]." [2011 c 4 § 26.]

Conflict with federal requirements—2011 c 4: "*If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2011 c 4 § 20.]

***Reviser's note:** See 2011 c 4 § 21 (uncodified), following this note.

Conflict with federal requirements—2011 c 4: "In determining under section 20 of this act which if any part of this act is in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in the state for federal unemployment tax credits, the commissioner of the Washington state employment security department shall have full and complete authority and discretion to determine the extent of the conflict and to determine which provisions of this act shall be inoperative and which shall remain in effect in order to remedy the conflict with federal requirements." [2011 c 4 § 21.]

50.20.130 Deduction from weekly benefit amount.

(1) If an eligible individual is available for work for less than a full week, he or she shall be paid his or her weekly benefit amount reduced by one-seventh of such amount for each day that he or she is unavailable for work: PROVIDED, That if he or she is unavailable for work for three days or more of a week, he or she shall be considered unavailable for the entire week.

(2) Each eligible individual who is unemployed in any week shall be paid with respect to such week a benefit in an amount equal to his or her weekly benefit amount less:

(a) Seventy-five percent of that part of the remuneration (if any) payable to him or her with respect to such week which is in excess of five dollars; or

(b) For any weeks in which the individual is receiving training benefits as provided in RCW 50.22.155(2), half of that part of the remuneration (if any) payable to him or her with respect to such week which is in excess of five dollars.

(3) The benefits in this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar. [2011 c 4 § 13; 2010 c 8 § 13022; 1983 1st ex.s. c 23 § 12; 1973 2nd ex.s. c 7 § 3; 1959 c 321 § 3; 1951 c 215 § 15; 1949 c 214 § 17; 1945 c 35 § 81; Rem. Supp. 1949 § 9998-219. Prior: 1943 c 127 § 1; 1941 c 253 § 1; 1939 c 214 § 1; 1937 c 162 § 3.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Additional notes found at www.leg.wa.gov

50.20.140 Filing applications and claims—Definitions. An application for initial determination, a claim for waiting period, or a claim for benefits shall be filed in accordance with such rules as the commissioner may prescribe. An application for an initial determination may be made by any

individual whether unemployed or not. Each employer shall post and maintain printed statements of such rules in places readily accessible to individuals in his or her employment and shall make available to each such individual at the time he or she becomes unemployed, a printed statement of such rules and such notices, instructions, and other material as the commissioner may by rule prescribe. Such printed material shall be supplied by the commissioner to each employer without cost to the employer.

The term "application for initial determination" shall mean a request in writing, or by other means as determined by the commissioner, for an initial determination. The term "claim for waiting period" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for waiting period have been met. The term "claim for benefits" shall mean a certification, after the close of a given week, that the requirements stated herein for eligibility for receipt of benefits have been met.

A representative designated by the commissioner shall take the application for initial determination and for the claim for waiting period credits or for benefits. When an application for initial determination has been made, the employment security department shall promptly make an initial determination which shall be a statement of the applicant's base year wages, his or her weekly benefit amount, his or her maximum amount of benefits potentially payable, and his or her benefit year. Such determination shall fix the general conditions under which waiting period credit shall be granted and under which benefits shall be paid during any period of unemployment occurring within the benefit year fixed by such determination. [1998 c 161 § 2; 1951 c 215 § 4; 1945 c 35 § 82; Rem. Supp. 1945 § 9998-220. Prior: 1943 c 127 § 4; 1941 c 253 § 4; 1939 c 214 § 4; 1937 c 162 § 6.]

Finding—Intent—1998 c 161: "The legislature finds that the shift by the employment security department from in-person written initial applications for unemployment insurance benefits to a call center approach creates opportunities for improved service but also raises serious concerns. Eliminating face-to-face contact may increase the potential for fraud and reduce the probability that claimants will utilize existing reemployment resources. Therefore, it is the intent of the legislature that if the written application process is to be eliminated, the employment security department must ensure that unemployment insurance claimants remain actively involved in reemployment activities and that an independent evaluation be conducted of the call center approach to unemployment insurance." [1998 c 161 § 1.]

Evaluation of call center: "(1) The joint legislative audit and review committee, in consultation with members of the senate and house of representatives commerce and labor committees and the unemployment insurance advisory committee, shall conduct an evaluation of the new call center approach to unemployment insurance. The evaluation shall review the performance of the call center system, including, but not limited to, the: (a) Promptness of payments; (b) number and types of errors; (c) amount and types of fraud; and (d) level of overpayments and underpayments, compared with the current system.

(2) The joint legislative audit and review committee is directed to contract with a private entity consistent with the provisions of *chapter 39.29 RCW. The committee shall consult with the unemployment insurance advisory committee in the design of the request for proposals from potential contractors and shall use the advisory committee to evaluate the responses. The joint legislative audit and review committee shall provide a report on its findings and recommendations to the appropriate standing committee of the senate and house of representatives by September 1, 2001." [1998 c 161 § 5.]

***Reviser's note:** Chapter 39.29 RCW was repealed by 2012 c 224 § 29, effective January 1, 2013. See chapter 39.26 RCW.

Additional notes found at www.leg.wa.gov

50.20.150 Notice of application or claim. The applicant for initial determination, his or her most recent employing unit as stated by the applicant, and any other interested party which the commissioner by regulation prescribes, shall, if not previously notified within the same continuous period of unemployment, be given notice promptly in writing that an application for initial determination has been filed and such notice shall contain the reasons given by the applicant for his or her last separation from work. If, during his or her benefit year, the applicant becomes unemployed after having accepted subsequent work, and reports for the purpose of reestablishing his or her eligibility for benefits, a similar notice shall be given promptly to his or her then most recent employing unit as stated by him or her, or to any other interested party which the commissioner by regulation prescribes.

Each base year employer shall be promptly notified of the filing of any application for initial determination which may result in a charge to his or her account. [2010 c 8 § 13023; 1970 ex.s. c 2 § 7; 1951 c 215 § 5; 1945 c 35 § 83; Rem. Supp. 1945 § 9998-221. Prior: 1943 c 127 § 4; 1941 c 253 § 4; 1939 c 214 § 4; 1937 c 162 § 6.]

Additional notes found at www.leg.wa.gov

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

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

(3) A determination of allowance of benefits shall become final, in absence of a timely appeal therefrom: PROVIDED, That the commissioner may redetermine such allowance at any time within two years following the benefit year in which such allowance was made in order to recover any benefits improperly paid and for which recovery is provided under the provisions of RCW 50.20.190: AND PROVIDED FURTHER, That in the absence of fraud, misrepresentation, or nondisclosure, this provision or the provisions of RCW 50.20.190 shall not be construed so as to permit redetermination or recovery of an allowance of benefits which having been made after consideration of the provisions of RCW 50.20.010(1)(c), or the provisions of RCW 50.20.050, 50.20.060, 50.20.080, or 50.20.090 has become final.

(4) A redetermination may be made at any time: (a) To conform to a final court decision applicable to either an initial

determination or a determination of denial or allowance of benefits; (b) in the event of a back pay award or settlement affecting the allowance of benefits; or (c) in the case of fraud, misrepresentation, or willful nondisclosure. Written notice of any such redetermination shall be promptly given by mail or delivered to such interested parties as were notified of the initial determination or determination of denial or allowance of benefits and any new interested party or parties who, pursuant to such regulation as the commissioner may prescribe, would be an interested party. [2003 2nd sp.s. c 4 § 31; 1990 c 245 § 4; 1959 c 266 § 4; 1953 ex.s. c 8 § 13; 1951 c 215 § 6; 1945 c 35 § 84; Rem. Supp. 1945 § 9998-222. Prior: 1941 c 253 § 4.]

Additional notes found at www.leg.wa.gov

50.20.170 Payment of benefits. An individual who has received an initial determination finding that he or she is potentially entitled to receive waiting period credit or benefits shall, during the benefit year, be given waiting period credit or be paid benefits in accordance with such initial determination for any week with respect to which the conditions of eligibility for such credit or benefits, as prescribed by this title, are met, unless the individual is denied waiting period credit or benefits under the disqualification provisions of this title.

All benefits shall be paid through employment offices in accordance with such regulations as the commissioner may prescribe. [2010 c 8 § 13024; 1945 c 35 § 85; Rem. Supp. 1945 § 9998-223. Prior: 1943 c 127 § 1; 1941 c 253 § 1; 1939 c 214 § 1; 1937 c 162 § 3.]

50.20.180 Denial of benefits. If waiting period credit or the payment of benefits shall be denied to any claimant for any week or weeks, the claimant and such other interested party as the commissioner by regulation prescribes shall be promptly issued written notice of the denial and the reasons therefor. In any case where the department is notified in accordance with such regulation as the commissioner prescribes or has reason to believe that the claimant's right to waiting period credit or benefits is in issue because of his or her separation from work for any reason other than lack of work, the department shall promptly issue a determination of allowance or denial of waiting period credit or benefits and the reasons therefor to the claimant, his or her most recent employing unit as stated by the claimant, and such other interested party as the commissioner by regulation prescribes. Notice that waiting period credit or benefits are allowed or denied shall suffice for the particular weeks stated in the notice or until the condition upon which the allowance or denial was based has been changed. [2010 c 8 § 13025; 1951 c 215 § 7; 1945 c 38 § 86; Rem. Supp. 1945 § 9998-224. Prior: 1943 c 127 § 4; 1941 c 253 § 4; 1939 c 214 § 4; 1937 c 162 § 6.]

50.20.190 Recovery of benefit payments. (1) 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 col-

lected, may be deducted from any future benefits payable to the individual: PROVIDED, That in the absence of a back pay award, a settlement affecting the allowance of benefits, fraud, misrepresentation, or willful nondisclosure, every determination of liability shall be mailed or personally served not later than two years after the close of or final payment made on the individual's applicable benefit year for which the purported overpayment was made, whichever is later, 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.

(2) The commissioner may waive an overpayment if the commissioner finds that the overpayment was not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the individual and that the recovery thereof would be against equity and good conscience. When determining whether the recovery would be against equity and good conscience, the department must consider whether the employer or employer's agent failed to respond timely and adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure pursuant to RCW 50.29.021(6). An overpayment waived under this subsection 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.

(3) 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 thirty days of the delivery of the notice of determination of liability, or within thirty days of the mailing of the notice of determination, whichever is the earlier, the determination of liability shall be deemed conclusive and final. Whenever any such notice of determination of liability becomes conclusive and final, the commissioner, upon giving at least twenty days' notice, using a method by which the mailing can be tracked or the delivery can be confirmed, may file with the superior court clerk of any county within the state a warrant in the amount of the notice of determination of liability plus a filing fee under RCW 36.18.012(10). The clerk of the county where the warrant is filed shall immediately designate a superior court cause number for the 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 person(s) mentioned in the warrant, the amount of the notice of determination of liability, and the date when the warrant was filed. The amount of the warrant as docketed shall become a lien upon the title to, and any interest in, all real and personal property of the person(s) against whom the warrant is issued, the same as a judgment in a civil case duly docketed in the

office of such clerk. A 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 for a civil judgment. A copy of the warrant shall be mailed within five days of its filing with the clerk to the person(s) mentioned in the warrant using a method by which the mailing can be tracked or the delivery can be confirmed.

(4) 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, the commissioner may collect the amount of such benefits from the claimant to be refunded to the 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.

(5) Any employer who is a party to a back pay award or settlement due to loss of wages shall, within thirty days of the award or settlement, report to the department the amount of the award or settlement, the name and social security number of the recipient of the award or settlement, and the period for which it is awarded. When an individual has been awarded or receives back pay, for benefit purposes the amount of the back pay shall constitute wages paid in the period for which it was awarded. For contribution purposes, the back pay award or settlement shall constitute wages paid in the period in which it was actually paid. The following requirements shall also apply:

(a) The employer shall reduce the amount of the back pay award or settlement by an amount determined by the department based upon the amount of unemployment benefits received by the recipient of the award or settlement during the period for which the back pay award or settlement was awarded;

(b) The employer shall pay to the unemployment compensation fund, in a manner specified by the commissioner, an amount equal to the amount of such reduction;

(c) The employer shall also pay to the department any taxes due for unemployment insurance purposes on the entire amount of the back pay award or settlement notwithstanding any reduction made pursuant to (a) of this subsection;

(d) If the employer fails to reduce the amount of the back pay award or settlement as required in (a) of this subsection, the department shall issue an overpayment assessment against the recipient of the award or settlement in the amount that the back pay award or settlement should have been reduced; and

(e) If the employer fails to pay to the department an amount equal to the reduction as required in (b) of this subsection, the department shall issue an assessment of liability against the employer which shall be collected pursuant to the procedures for collection of assessments provided herein and in RCW 50.24.110.

(6) When an individual fails to repay an overpayment assessment that is due and fails to arrange for satisfactory repayment terms, the commissioner shall impose an interest penalty of one percent per month of the outstanding balance. Interest shall accrue immediately on overpayments assessed pursuant to RCW 50.20.070 and shall be imposed when the assessment becomes final. For any other overpayment, interest shall accrue when the individual has missed two or more of the individual's monthly payments either partially or in full.

(7) The department shall: (a) Conduct social security number cross-match audits or engage in other more effective activities that ensure that individuals are entitled to all amounts of benefits that they are paid; and (b) engage in other detection and recovery of overpayment and collection activities. [2013 c 189 § 4; 2011 c 301 § 17; 2007 c 327 § 1; 2006 c 13 § 21. Prior: 2005 c 518 § 934; 2003 2nd sp.s. c 4 § 26; 2002 c 371 § 915; 2001 c 146 § 7; 1995 c 90 § 1; 1993 c 483 § 13; 1991 c 117 § 3; 1990 c 245 § 5; 1989 c 92 § 2; 1981 c 35 § 6; 1975 1st ex.s. c 228 § 3; 1973 1st ex.s. c 158 § 7; 1953 ex.s. c 8 § 14; 1951 c 215 § 8; 1947 c 215 § 18; 1945 c 35 § 87; Rem. Supp. 1947 § 9998-225; prior: 1943 c 127 § 12; 1941 c 253 § 13; 1939 c 214 § 14; 1937 c 162 § 16.]

Conflict with federal requirements—Effective date—2013 c 189: See notes following RCW 50.16.010.

Government or retirement pension plan payments as remuneration or wages—Recovery of excess over benefits allowable, limitations: RCW 50.04.323.

Additional notes found at www.leg.wa.gov

50.20.191 Authority to compromise benefit overpayments. See RCW 50.24.020.

50.20.192 Collection of benefit overpayments, limitation of actions. See RCW 50.24.190.

50.20.193 Chargeoff of uncollectible benefit overpayments. See RCW 50.24.200.

50.20.195 Assessed interest—Use. All receipts from interest assessed against unemployment insurance claimants shall be deposited in the administrative contingency fund and shall be used for the purpose of RCW 50.20.190(6). [1993 c 483 § 14.]

Additional notes found at www.leg.wa.gov

50.20.200 Nonliability of state. Benefits shall be deemed to be due and payable under this title only to the extent provided in this title and to the extent that moneys are available therefor to the credit of the unemployment compensation fund, and neither the state nor the commissioner shall be liable for any amount in excess of such sums. [1945 c 35 § 88; Rem. Supp. 1945 § 9998-226.]

50.20.210 Notification of availability of basic health plan. The commissioner shall notify any person filing a claim under this chapter who resides in a local area served by the Washington basic health plan of the availability of basic health care coverage to qualified enrollees in the Washington basic health plan under chapter 70.47 RCW, unless the Washington basic health plan administrator has notified the

commissioner of a closure of enrollment in the area. The commissioner shall maintain a supply of Washington basic health plan enrollment application forms, which shall be provided in reasonably necessary quantities by the administrator, in each appropriate employment service office for the use of persons wishing to apply for enrollment in the Washington basic health plan. [1987 1st ex.s. c 5 § 16.]

50.20.220 Federal income tax deduction and withholding—Notice—Rules. (1) An individual filing a new claim for unemployment insurance must, at the time of filing such claim, be advised that:

(a) Unemployment insurance is subject to federal income tax;

(b) Requirements exist pertaining to estimated tax payments;

(c) The individual may elect to have federal income tax deducted and withheld from the individual's payment of unemployment insurance at the amount specified in the federal internal revenue code; and

(d) The individual is permitted to change a previously elected withholding status.

(2) Amounts deducted and withheld from unemployment compensation must remain in the unemployment fund until transferred to the federal taxing authority as a payment of income tax.

(3) The commissioner shall follow all procedures specified by the United States department of labor and the federal internal revenue service pertaining to the deducting and withholding of income tax.

(4) The commissioner shall adopt rules to implement this section. Amounts shall be deducted and withheld in accordance with the priorities established in rules adopted by the commissioner. [1996 c 28 § 2.]

Findings—1996 c 28: "The legislature finds that:

(1) The unique federal and state partnership of the unemployment insurance program places a special responsibility on states, and selected Congressional legislation requires conforming legislation at the state level;

(2) The most recent conformity legislation requires states to offer unemployed workers the option of having the employment security department withhold federal income tax from unemployment insurance benefits;

(3) Unemployment benefits have been subject to income tax for several years, and voluntary withholding is a reasonable strategy some claimants will use to spread the payment of their federal income tax liability over several weeks or months rather than a single payment at income tax time; and

(4) Conformity with federal law supports the federal and state partnership and responds to the needs of this state's unemployed workers." [1996 c 28 § 1.]

Additional notes found at www.leg.wa.gov

50.20.230 Electronic labor exchange system. The employment security department will ensure that within a reasonably short period of time after the initiation of benefits, all unemployment insurance claimants, except those with employer attachment, union referral, individuals complying with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, in commissioner-approved training, or the subject of antiharassment orders, register for job search in an electronic labor exchange system that supports direct employer access for the purpose of selecting job applicants. [2019 c 50 § 2; 1998 c 161 § 3.]

(2019 Ed.)

Applicability—2019 c 50 §§ 1-3: See note following RCW 50.20.010.

Finding—Intent—1998 c 161: See note following RCW 50.20.140.

50.20.240 Job search monitoring. (1)(a) To ensure that following the initial application for benefits, an individual is actively engaged in searching for work, the employment security department shall implement a job search monitoring program. The department shall contract with employment security agencies in other states to ensure that individuals residing in those states and receiving benefits under this title are actively engaged in searching for work in accordance with the requirements of this section. The department may use interactive voice technology and other electronic means to ensure that individuals are subject to comparable job search monitoring, regardless of whether they reside in Washington or elsewhere.

(b) Except for those individuals with employer attachment or union referral, individuals complying with an electrical apprenticeship training program that includes a recognized referral system under apprenticeship program standards approved by the Washington state apprenticeship and training council, individuals who qualify for unemployment compensation under *RCW 50.20.050 (1)(b)(iv) or (2)(b)(iv), as applicable, and individuals in commissioner-approved training, an individual who has received five or more weeks of benefits under this title, regardless of whether the individual resides in Washington or elsewhere, must provide evidence of seeking work, as directed by the commissioner or the commissioner's agents, for each week beyond five in which a claim is filed. The evidence must demonstrate contacts with at least three employers per week or documented in-person job search activities at the local reemployment center at least three times per week.

(c) In developing the requirements for the job search monitoring program, the commissioner or the commissioner's agents shall utilize an existing advisory committee having equal representation of employers and workers.

(2) An individual who fails to comply fully with the requirements for actively seeking work under RCW 50.20.010 shall lose all benefits for all weeks during which the individual was not in compliance, and the individual shall be liable for repayment of all such benefits under RCW 50.20.190. [2019 c 50 § 3; 2006 c 13 § 16. Prior: 2004 c 110 § 1; 2003 2nd sp.s. c 4 § 10; 2002 c 8 § 3; 1998 c 161 § 4.]

***Reviser's note:** RCW 50.20.050 was amended twice during the 2009 legislative session, changing the subsection numbering.

Applicability—2019 c 50 §§ 1-3: See note following RCW 50.20.010.

Finding—Intent—1998 c 161: See note following RCW 50.20.140.

Additional notes found at www.leg.wa.gov

50.20.250 Self-employment assistance program—Finding—Department provides information to eligible individuals—Rules. (1) The legislature finds that the establishment of a self-employment assistance program would assist unemployed individuals and create new businesses and job opportunities in Washington state. The department must inform all individuals eligible under the terms of RCW 50.20.010 of the availability of self-employment assistance and entrepreneurial training programs and of the training provisions of RCW 50.20.043 which would allow them to pursue commissioner-approved training. In addition, when indi-

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viduals are identified as likely to exhaust benefits under RCW 50.20.011, and when individuals are otherwise eligible for commissioner-approved training under RCW 50.20.043, the department must inform such individuals of the opportunity to enroll in commissioner-approved self-employment assistance programs.

(2) An unemployed individual is eligible to participate in a self-employment assistance program if it has been determined that he or she:

(a) Is otherwise eligible for regular benefits as defined in RCW 50.22.010;

(b) Has been identified as likely to exhaust regular unemployment benefits under a profiling system established by the commissioner as defined in P.L. 103-152 or is otherwise eligible for commissioner-approved training under RCW 50.20.043; and

(c) Is enrolled in a self-employment assistance program that is approved by the commissioner, and includes entrepreneurial training, business counseling, technical assistance, and requirements to engage in activities relating to the establishment of a business and becoming self-employed.

(3) Individuals participating in a self-employment assistance program approved by the commissioner are eligible to receive their regular unemployment benefits.

(a) The requirements of RCW 50.20.010 and 50.20.080 relating to availability for work, active search for work, and refusal to accept suitable work are not applicable to an individual in the self-employment assistance program for the first fifty-two weeks of the individual's participation in the program. However, enrollment in a self-employment assistance program does not entitle the enrollee to any benefit payments he or she would not be entitled to had he or she not enrolled in the program.

(b) An individual who meets the requirements of this section is considered to be "unemployed" under RCW 50.04.310 and 50.20.010.

(4) An individual who fails to participate in his or her approved self-employment assistance program as prescribed by the commissioner is disqualified from continuation in the program.

(5) The commissioner must take all steps necessary in carrying out this section to assure collaborative involvement of interested parties in program development, and to ensure that the self-employment assistance programs meet all federal criteria for withdrawal from the unemployment fund. The commissioner may approve, as self-employment assistance programs, existing self-employment training programs available through community colleges, workforce development boards, or other organizations and is not obligated by this section to expend any departmental funds for the operation of self-employment assistance programs, unless specific funding is provided to the department for that purpose through federal or state appropriations.

(6) The commissioner may adopt rules as necessary to implement this section. [2017 c 39 § 7; 2012 c 40 § 2; 2007 c 248 § 1.]

Report to legislature—2012 c 40; 2007 c 248: "By December 1, 2015, the employment security department must report to relevant legislative committees on the performance of the self-employment assistance program. The report must include an analysis of the following:

- (1) Self-employment impacts;
- (2) Wage and salary outcomes;

(3) Benefit payment outcomes; and

(4) A cost-benefit analysis." [2012 c 40 § 3; 2007 c 248 § 3.]

Additional notes found at www.leg.wa.gov

Chapter 50.22 RCW

EXTENDED AND ADDITIONAL BENEFITS

Sections

50.22.005	Collaborative review of programs.
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50.22.105	Supplemental additional benefits—February 26, 1994, through December 31, 1995—Eligibility.
50.22.130	Training benefits program—Intent.
50.22.140	Employment security department authorized to pay training benefits—Expenditures.
50.22.150	Training benefits—Claims effective before April 5, 2009—Eligibility—Definitions—Payment—Local workforce development council to identify high-demand occupations and occupations in declining employer demand—Rules.
50.22.155	Training benefits—Claims effective on or after April 5, 2009—Eligibility—Definitions—Role of local workforce development councils—Rules.
50.22.157	Training benefits program—Report—Program review and evaluation.

50.22.005 Collaborative review of programs. The employment security department shall periodically bring together representatives of the workforce training and education coordinating board, workforce development councils, the state board for community and technical colleges, business, labor, and the legislature to review development and implementation of chapter 566, Laws of 2009 and related programs under this chapter. [2009 c 566 § 7.]

Findings—Intent—Effective date—2009 c 566: See notes following RCW 50.24.014.

50.22.010 Definitions. As used in this chapter, unless the context clearly indicates otherwise:

(1) "Extended benefit period" means a period which:

(a) Begins with the third week after a week for which there is an "on" indicator; and

(b) Ends with the third week after the first week for which there is an "off" indicator: PROVIDED, That no extended benefit period shall last for a period of less than thirteen consecutive weeks, and further that no extended benefit period may begin by reason of an "on" indicator before the fourteenth week after the close of a prior extended benefit period which was in effect with respect to this state.

(2)(a) There is an "on" indicator for this state for a week if the commissioner determines, in accordance with the regulations of the United States secretary of labor, that for the period consisting of such week and the immediately preceding twelve weeks:

(i) The rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in each of the preceding two calendar years and equaled or exceeded five percent; or

(ii) For benefits for weeks of unemployment beginning after March 6, 1993:

(A) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

(B) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(ii)(A) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(b) This subsection applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection:

(i) The average rate of insured unemployment, not seasonally adjusted, equaled or exceeded one hundred twenty percent of the average of such rates for the corresponding thirteen-week period ending in all of the preceding three calendar years and equaled or exceeded five percent; or

(ii) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds six and one-half percent; and

(iii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (b)(ii) of this subsection, equals or exceeds one hundred ten percent of the average for any of the corresponding three-month periods ending in the three preceding calendar years.

(3)(a) "High unemployment period" means any period of unemployment beginning after March 6, 1993, during which an extended benefit period would be in effect if:

(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three months for which data for all states are published before the close of the week equals or exceeds eight percent; and

(ii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(i) of this subsection, equals or exceeds one hundred ten percent of the average for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(b) This subsection applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection:

(i) The average rate of total unemployment, seasonally adjusted, as determined by the United States secretary of labor, for the period consisting of the most recent three

months for which data for all states are published before the close of the week equals or exceeds eight percent; and

(ii) The average rate of total unemployment in the state, seasonally adjusted, as determined by the United States secretary of labor, for the three-month period referred to in (a)(i) of this subsection, equals or exceeds one hundred ten percent of the average for any of the corresponding three-month periods ending in the three preceding calendar years.

(4) There is an "off" indicator for this state for a week only if, for the period consisting of such week and immediately preceding twelve weeks, none of the options specified in subsection (2) or (3) of this section result in an "on" indicator.

(5) "Regular benefits" means benefits payable to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85) other than extended benefits or additional benefits.

(6) "Extended benefits" means benefits payable for weeks of unemployment beginning in an extended benefit period to an individual under this title or under any state law (including benefits payable to federal civilian employees and to ex-servicemen or ex-servicewomen pursuant to 5 U.S.C. chapter 85) other than regular or additional benefits.

(7) "Additional benefits" are benefits totally financed by the state and payable under this title to exhaustees by reason of conditions of high unemployment or by reason of other special factors.

(8) "Eligibility period" of an individual means:

(a) The period consisting of the weeks in his or her benefit year which begin in an extended benefit period that is in effect in this state and, if his or her benefit year ends within such extended benefit period, any weeks thereafter which begin in such period; or

(b) For an individual who is eligible for emergency unemployment compensation during the extended benefit period beginning February 15, 2009, the period consisting of the week ending February 28, 2009, and applies as provided under the tax relief, unemployment insurance reauthorization, and job creation act of 2010 (P.L. 111-312) as it existed on December 17, 2010, or such subsequent date as may be provided by the department by rule, consistent with the purposes of this subsection.

(9) "Additional benefit eligibility period" of an individual means the period consisting of the weeks in his or her benefit year which begin in an additional benefit period that is in effect and, if his or her benefit year ends within such additional benefit period, any weeks thereafter which begin in such period.

(10) "Exhaustee" means an individual who, with respect to any week of unemployment in his or her eligibility period:

(a) Has received, prior to such week, all of the regular benefits that were payable to him or her under this title or any other state law (including dependents' allowances and regular benefits payable to federal civilian employees and ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week; or

(b) Has received, prior to such week, all of the regular benefits that were available to him or her under this title or any other state law (including dependents' allowances and regular benefits available to federal civilian employees and

ex-servicemen or ex-servicewomen under 5 U.S.C. chapter 85) in his or her current benefit year that includes such week, after the cancellation of some or all of his or her wage credits or the total or partial reduction of his or her rights to regular benefits: PROVIDED, That, for the purposes of (a) and (b) of this subsection, an individual shall be deemed to have received in his or her current benefit year all of the regular benefits that were payable to him or her, or available to him or her, as the case may be, even though:

(i) As a result of a pending appeal with respect to wages or employment, or both, that were not included in the original monetary determination with respect to his or her current benefit year, he or she may subsequently be determined to be entitled to more regular benefits; or

(ii) By reason of the seasonal provisions of another state law, he or she is not entitled to regular benefits with respect to such week of unemployment (although he or she may be entitled to regular benefits with respect to future weeks of unemployment in the next season, as the case may be, in his or her current benefit year), and he or she is otherwise an exhaustee within the meaning of this section with respect to his or her right to regular benefits under such state law seasonal provisions during the season or off season in which that week of unemployment occurs; or

(iii) Having established a benefit year, no regular benefits are payable to him or her during such year because his or her wage credits were canceled or his or her right to regular benefits was totally reduced as the result of the application of a disqualification; or

(c) His or her benefit year having ended prior to such week, he or she has insufficient wages or employment, or both, on the basis of which he or she could establish in any state a new benefit year that would include such week, or having established a new benefit year that includes such week, he or she is precluded from receiving regular benefits by reason of the provision in RCW 50.04.030 which meets the requirement of section 3304(a)(7) of the federal unemployment tax act, or the similar provision in any other state law; and

(d)(i) Has no right for such week to unemployment benefits or allowances, as the case may be, under the railroad unemployment insurance act, the trade expansion act of 1962, and such other federal laws as are specified in regulations issued by the United States secretary of labor; and

(ii) Has not received and is not seeking for such week unemployment benefits under the unemployment compensation law of Canada, unless the appropriate agency finally determines that he or she is not entitled to unemployment benefits under such law for such week.

(11) "State law" means the unemployment insurance law of any state, approved by the United States secretary of labor under section 3304 of the internal revenue code of 1954. [2013 c 23 § 103; 2011 c 4 § 5; 2011 c 3 § 1; 2009 c 493 § 4; 1993 c 483 § 15; 1985 ex.s. c 5 § 10; 1983 c 1 § 1; 1982 1st ex.s. c 18 § 2; 1981 c 35 § 7; 1977 ex.s. c 292 § 11; 1973 c 73 § 7; 1971 c 1 § 2.]

Effective date—2011 c 4 §§ 1-6 and 16-21: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 3: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2011 c 3 § 4.]

Effective date—2011 c 3: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [February 11, 2011]." [2011 c 3 § 6.]

Effective date—2009 c 493 § 4: "Section 4 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 14, 2009]." [2009 c 493 § 7.]

Conflict with federal requirements—2009 c 493: See note following RCW 50.29.021.

Additional notes found at www.leg.wa.gov

50.22.020 Application of statute and rules—Eligibility for extended benefits. When the result would not be inconsistent with the other provisions of this chapter, the provisions of this title and commissioner's regulations enacted pursuant thereto, which apply to claims for, or the payment of, regular benefits, shall apply to claims for, and the payment of, extended benefits: PROVIDED, That

(1) Payment of extended compensation under this chapter shall not be made to any individual for any week of unemployment in his or her eligibility period—

(a) During which he or she fails to accept any offer of suitable work (as defined in subsection (3) of this section) or fails to apply for any suitable work to which he or she was referred by the employment security department; or

(b) During which he or she fails to actively engage in seeking work.

(2) If any individual is ineligible for extended compensation for any week by reason of a failure described in subsections (1)(a) or (1)(b) of this section, the individual shall be ineligible to receive extended compensation for any week which begins during a period which—

(a) Begins with the week following the week in which such failure occurs; and

(b) Does not end until such individual has been employed during at least four weeks which begin after such failure and the total of the remuneration earned by the individual for being so employed is not less than the product of four multiplied by the individual's weekly benefit amount (as determined under RCW 50.20.120) for his or her benefit year.

(3) For purposes of this section, the term "suitable work" means, with respect to any individual, any work which is within such individual's capabilities and which does not involve conditions described in RCW 50.20.110: PROVIDED, That if the individual furnishes evidence satisfactory to the employment security department that such individual's prospects for obtaining work in his or her customary occupation within a reasonably short period are good, the determination of whether any work is suitable work with respect to such individual shall be made in accordance with RCW 50.20.100.

(4) Extended compensation shall not be denied under subsection (1)(a) of this section to any individual for any week by reason of a failure to accept an offer of, or apply for, suitable work if:

(a) The gross average weekly remuneration payable to such individual for the position does not exceed the sum of—

(i) The individual's weekly benefit amount (as determined under RCW 50.20.120) for his or her benefit year; plus

(ii) The amount (if any) of supplemental unemployment compensation benefits (as defined in section 501(c)(17)(D) of the Internal Revenue Code of 1954, 26 U.S.C. Sec. 501(c)(17)(D)), payable to such individual for such week;

(b) The position was not offered to such individual in writing and was not listed with the employment security department;

(c) Such failure would not result in a denial of compensation under the provisions of RCW 50.20.080 and 50.20.100 to the extent such provisions are not inconsistent with the provisions of subsections (3) and (5) of this section; or

(d) The position pays wages less than the higher of—

(i) The minimum wage provided by section (6)(a)(1) of the Fair Labor Standards Act of 1938, without regard to any exemption; or

(ii) Any applicable state or local minimum wage.

(5) For purposes of this section, an individual shall be treated as actively engaged in seeking work during any week if:

(a) The individual has engaged in a systematic and sustained effort to obtain work during such week; and

(b) The individual provides tangible evidence to the employment security department that he or she has engaged in such an effort during such week.

(6) The employment security department shall refer applicants for benefits under this chapter to any suitable work to which subsections (4)(a) through (4)(d) of this section would not apply.

(7) No provisions of this title which terminates a disqualification for voluntarily leaving employment, being discharged for misconduct, or refusing suitable employment shall apply for purposes of determining eligibility for extended compensation unless such termination is based upon employment subsequent to the date of such disqualification.

(8) The provisions of subsections (1) through (7) of this section shall apply with respect to weeks of unemployment beginning after March 31, 1981: PROVIDED HOWEVER, That the provisions of subsections (1) through (7) of this section shall not apply to those weeks of unemployment beginning after March 6, 1993, and before January 1, 1995. [1993 c 483 § 16; 1993 c 58 § 3; 1981 c 35 § 8; 1971 c 1 § 3.]

Reviser's note: This section was amended by 1993 c 58 § 3 and by 1993 c 483 § 16, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

50.22.030 Extended benefit eligibility conditions—

Interstate claim. (1) An individual shall be eligible to receive extended benefits with respect to any week of unemployment in his or her eligibility period only if the commissioner finds with respect to such week that:

(a) The individual is an "exhaustee" as defined in RCW 50.22.010;

(b) He or she has satisfied the requirements of this title for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits; and

(c) He or she has earned wages in the applicable base year of at least:

(i) Forty times his or her weekly benefit amount; or

(ii) One and one-half times his or her insured wages in the calendar quarter of the base period in which the insured wages are the highest, for weeks of unemployment on or after July 3, 1992.

(2) An individual filing an interstate claim in any state under the interstate benefit payment plan shall not be eligible to receive extended benefits for any week beyond the first two weeks claimed for which extended benefits are payable unless an extended benefit period embracing such week is also in effect in the agent state. [1993 c 483 § 17; 1982 1st ex.s. c 18 § 4; 1981 c 35 § 9; 1971 c 1 § 4.]

Additional notes found at www.leg.wa.gov

50.22.040 Weekly extended benefit amount. The weekly extended benefit amount payable to an individual for a week of total unemployment in his or her eligibility period shall be an amount equal to the weekly benefit amount payable to him or her during his or her applicable benefit year. However, for those individuals whose eligibility period for extended benefits commences with weeks beginning after October 1, 1983, the weekly benefit amount, as computed in RCW 50.20.120(2) and payable under this section, if not a multiple of one dollar, shall be reduced to the next lower multiple of one dollar. [2010 c 8 § 13026; 1983 1st ex.s. c 23 § 13; 1971 c 1 § 5.]

Additional notes found at www.leg.wa.gov

50.22.050 Total extended benefit amount—Reduction. (1) The total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts:

(a) Fifty percent of the total amount of regular benefits which were payable to him or her under this title in his or her applicable benefit year;

(b) Thirteen times his or her weekly benefit amount which was payable to him or her under this title for a week of total unemployment in the applicable benefit year; or

(c) Thirty-nine times his or her weekly benefit amount which was payable to him or her under this title for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid (or deemed paid) to him or her under this title with respect to the benefit year.

(2) Notwithstanding any other provision of this chapter, if the benefit year of any eligible individual ends within an extended benefit period, the extended benefits which the individual would otherwise be entitled to receive with respect to weeks of unemployment beginning after the end of the benefit year and within the extended benefit period shall be reduced (but not below zero) by the product of the number of weeks for which the individual received any amount as a

trade readjustment allowance within that benefit year, multiplied by the individual's weekly extended benefit amount.

(3) Effective for weeks beginning in a high unemployment period as defined in RCW 50.22.010(3) the total extended benefit amount payable to any eligible individual with respect to his or her applicable benefit year shall be the least of the following amounts:

(a) Eighty percent of the total amount of regular benefits that were payable to him or her under this title in his or her applicable benefit year;

(b) Twenty times his or her weekly benefit amount that was payable to him or her under this title for a week of total unemployment in the applicable benefit year; or

(c) Forty-six times his or her weekly benefit amount that was payable to him or her under this title for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid, or deemed paid, to him or her under this title with respect to the benefit year. [1993 c 483 § 18; 1982 1st ex.s. c 18 § 5; 1971 c 1 § 6.]

Additional notes found at www.leg.wa.gov

50.22.060 Public announcement when extended benefit period becomes effective or is terminated—Computations of rate of insured unemployment. (1) Whenever an extended benefit period is to become effective in this state (or in all states) as a result of an "on" indicator, or an extended benefit period is to be terminated in this state as a result of an "off" indicator, the commissioner shall make an appropriate public announcement.

(2) Computations required by the provisions of RCW 50.22.010(4) shall be made by the commissioner, in accordance with regulations prescribed by the United States secretary of labor. [1982 1st ex.s. c 18 § 3; 1971 c 1 § 7.]

Additional notes found at www.leg.wa.gov

50.22.105 Supplemental additional benefits—February 26, 1994, through December 31, 1995—Eligibility. Supplemental additional benefits shall be available to individuals who, under this chapter, had a balance of extended benefits available after payments up to and including the week ending February 26, 1994.

(1) Total supplemental additional benefits payable shall be equal to the extended benefit balance remaining after extended benefit payments for up to and including the week ending February 26, 1994, and shall be paid at the same weekly benefit amount.

(2) The week ending March 5, 1994, is the first week for which supplemental additional benefits are payable.

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

(4) Supplemental additional benefits are not payable for weeks more than one year beyond the end of the benefit year of the regular claim.

(5) Weeks of supplemental additional benefits may not be paid for weeks that begin after the start of a new extended benefit period, or any totally federally funded benefit program with eligibility criteria and benefits comparable to additional benefits.

(6) Weeks of supplemental additional benefits may not be paid for weeks of unemployment beginning after December 31, 1995.

(7) The department shall seek federal funding to reimburse the state for the supplemental additional benefits paid under this section. Any federal funds received by the state for reimbursement shall be deposited in the unemployment trust fund solely for the payment of benefits under this title. [1994 c 3 § 3.]

Additional notes found at www.leg.wa.gov

50.22.130 Training benefits program—Intent. It is the intent of the legislature that a training benefits program be established to provide unemployment insurance benefits to unemployed individuals who participate in training programs necessary for their reemployment.

The legislature further intends that this program serve the following goals:

(1) Retraining should be available for those unemployed individuals whose skills are no longer in demand;

(2) Training must enhance the individual's marketable skills and earning power; and

(3) Retraining must be targeted to high-demand occupations.

The legislature further intends that funding for this program be limited by a specified maximum amount each fiscal year. [2011 c 4 § 8; 2009 c 353 § 3; 2000 c 2 § 6.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Additional notes found at www.leg.wa.gov

50.22.140 Employment security department authorized to pay training benefits—Expenditures. (1) The employment security department is authorized to pay training benefits under RCW 50.22.150 and 50.22.155, but may not obligate expenditures beyond the limits specified in this section or as otherwise set by the legislature. Any funds not obligated in one fiscal year may be carried forward to the next fiscal year. The commissioner may not obligate more than twenty million dollars annually in addition to any funds carried forward from previous fiscal years.

(2) If the amount available for training benefits at any time is equal to or less than five million dollars, funds will no longer be obligated for individuals in RCW 50.22.155(2)(a)(ii). If funds are exhausted, training benefits will continue to be obligated to dislocated workers only under RCW 50.22.155(2)(a)(i). The following year's obligation for training benefits will be reduced by a corresponding amount. [2011 c 4 § 10; 2002 c 149 § 1; 2000 2nd sp.s. c 1 § 916; 2000 c 2 § 7.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Additional notes found at www.leg.wa.gov

50.22.150 Training benefits—Claims effective before April 5, 2009—Eligibility—Definitions—Payment—Local workforce development council to identify high-demand occupations and occupations in declining employer demand—Rules. (1) This section applies to claims with an effective date before April 5, 2009.

(2) Subject to availability of funds, training benefits are available for an individual who is eligible for or has exhausted entitlement to unemployment compensation benefits and who:

(a) Is a dislocated worker as defined in RCW 50.04.075;

(b) Except as provided under subsection (3) of this section, has demonstrated, through a work history, sufficient tenure in an occupation or in work with a particular skill set. This screening will take place during the assessment process;

(c) Is, after assessment of demand for the individual's occupation or skills in the individual's labor market, determined to need job-related training to find suitable employment in his or her labor market. Beginning July 1, 2001, the assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets identified in local labor market areas by the local workforce development councils, in cooperation with the employment security department and its labor market information division, under subsection (11) of this section;

(d) Develops an individual training program that is submitted to the commissioner for approval within sixty days after the individual is notified by the employment security department of the requirements of this section;

(e) Enters the approved training program by ninety days after the date of the notification, unless the employment security department determines that the training is not available during the ninety-day period, in which case the individual enters training as soon as it is available; and

(f) Is enrolled in training approved under this section on a full-time basis as determined by the educational institution, and is making satisfactory progress in the training as certified by the educational institution.

(3) Until June 30, 2002, the following individuals who meet the requirements of subsection (2) of this section may, without regard to the tenure requirements under subsection (2)(b) of this section, receive training benefits as provided in this section:

(a) An exhaustee who has base year employment in the aerospace industry assigned the standard industrial classification code "372" or the North American industry classification system code "336411";

(b) An exhaustee who has base year employment in the forest products industry, determined by the department, but including the industries assigned the major group standard industrial classification codes "24" and "26" or any equivalent codes in the North American industry classification system code, and the industries involved in the harvesting and management of logs, transportation of logs and wood products, processing of wood products, and the manufacturing and distribution of wood processing and logging equipment; or

(c) An exhaustee who has base year employment in the fishing industry assigned the standard industrial classification code "0912" or any equivalent codes in the North American industry classification system code.

(4) An individual is not eligible for training benefits under this section if he or she:

(a) Is a standby claimant who expects recall to his or her regular employer;

(b) Has a definite recall date that is within six months of the date he or she is laid off; or

(c) Is unemployed due to a regular seasonal layoff which demonstrates a pattern of unemployment consistent with the provisions of *RCW 50.20.015. Regular seasonal layoff does not include layoff due to permanent structural downsizing or structural changes in the individual's labor market.

(5) The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410, including equivalent educational institutions in other states.

(b) "Sufficient tenure" means earning a plurality of wages in a particular occupation or using a particular skill set during the base year and at least two of the four twelve-month periods immediately preceding the base year.

(c) "Training benefits" means additional benefits paid under this section.

(d) "Training program" means:

(i) An education program determined to be necessary as a prerequisite to vocational training after counseling at the educational institution in which the individual enrolls under his or her approved training program; or

(ii) A vocational training program at an educational institution:

(A) That is targeted to training for a high-demand occupation. Beginning July 1, 2001, the assessment of high-demand occupations authorized for training under this section must be substantially based on labor market and employment information developed by local workforce development councils, in cooperation with the employment security department and its labor market information division, under subsection (11) of this section;

(B) That is likely to enhance the individual's marketable skills and earning power; and

(C) That meets the criteria for performance developed by the workforce training and education coordinating board for the purpose of determining those training programs eligible for funding under Title I of P.L. 113-128.

"Training program" does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or for specific skills necessary for the occupation.

(6) Benefits shall be paid as follows:

(a)(i) Except as provided in (a)(iii) of this subsection, for exhaustees who are eligible under subsection (2) of this section, the total training benefit amount shall be fifty-two times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid, or deemed paid, with respect to the benefit year; or

(ii) For exhaustees who are eligible under subsection (3) of this section, for claims filed before June 30, 2002, the total training benefit amount shall be seventy-four times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid, or deemed paid, with respect to the benefit year; or

(iii) For exhaustees eligible under subsection (2) of this section from industries listed under subsection (3)(a) of this section, for claims filed on or after June 30, 2002, but before January 5, 2003, the total training benefit amount shall be seventy-four times the individual's weekly benefit amount,

reduced by the total amount of regular benefits and extended benefits paid, or deemed paid, with respect to the benefit year.

(b) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits. The training benefits shall be paid before any extended benefits but not before any similar federally funded program.

(c) Training benefits are not payable for weeks more than two years beyond the end of the benefit year of the regular claim.

(7) The requirement under RCW 50.22.010(10) relating to exhausting regular benefits does not apply to an individual otherwise eligible for training benefits under this section when the individual's benefit year ends before his or her training benefits are exhausted and the individual is eligible for a new benefit year. These individuals will have the option of remaining on the original claim or filing a new claim.

(8)(a) Except as provided in (b) of this subsection, individuals who receive training benefits under this section or under any previous additional benefits program for training are not eligible for training benefits under this section for five years from the last receipt of training benefits under this section or under any previous additional benefits program for training.

(b) With respect to claims that are filed before January 5, 2003, an individual in the aerospace industry assigned the standard industrial code "372" or the North American industry classification system code "336411" who received training benefits under this section, and who had been making satisfactory progress in a training program but did not complete the program, is eligible, without regard to the five-year limitation of this section and without regard to the requirement of subsection (2)(b) of this section, if applicable, to receive training benefits under this section in order to complete that training program. The total training benefit amount that applies to the individual is seventy-four times the individual's weekly benefit amount, reduced by the total amount of regular benefits paid, or deemed paid, with respect to the benefit year in which the training program resumed and, if applicable, reduced by the amount of training benefits paid, or deemed paid, with respect to the benefit year in which the training program commenced.

(9) An individual eligible to receive a trade readjustment allowance under chapter 2 of Title II of the Trade Act of 1974, as amended, shall not be eligible to receive benefits under this section for each week the individual receives such trade readjustment allowance. An individual eligible to receive emergency unemployment compensation, so called, under any federal law, shall not be eligible to receive benefits under this section for each week the individual receives such compensation.

(10) All base year employers are interested parties to the approval of training and the granting of training benefits.

(11) By July 1, 2001, each local workforce development council, in cooperation with the employment security department and its labor market information division, must identify high-demand occupations and occupations in declining employer demand. For the purposes of RCW 50.22.130 through 50.22.150 and section 9, chapter 2, Laws of 2000,

"high-demand occupation" means an occupation with a substantial number of current or projected employment opportunities. Local workforce development councils must use state and locally developed labor market information. Thereafter, each local workforce development council shall update this information annually or more frequently if needed.

(12) The commissioner shall adopt rules as necessary to implement this section. [2017 c 39 § 8; 2009 c 353 § 4; 2009 c 3 § 5; 2002 c 149 § 2; 2000 c 2 § 8.]

*Reviser's note: RCW 50.20.015 was repealed by 2003 2nd sp.s. c 4 § 35.

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

Additional notes found at www.leg.wa.gov

50.22.155 Training benefits—Claims effective on or after April 5, 2009—Eligibility—Definitions—Role of local workforce development councils—Rules. (1) With respect to claims with an effective date on or after April 5, 2009, and before July 1, 2012:

(a) Subject to availability of funds, training benefits are available for an individual who is eligible for or has exhausted entitlement to unemployment compensation benefits when:

(i) The individual is a dislocated worker as defined in RCW 50.04.075 and, after assessment of the individual's labor market, occupation, or skills, is determined to need job-related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets and high-demand occupations identified in local labor market areas by the local workforce development councils in cooperation with the employment security department and its labor market information division; or

(ii) For claims with an effective date on or after September 7, 2009, the individual:

(A) Earned an average hourly wage in the individual's base year that is less than one hundred thirty percent of the state minimum wage and, after assessment, it is determined that the individual's earning potential will be enhanced through vocational training. The individual's average hourly wage is calculated by dividing the total wages paid by the total hours worked in the individual's base year;

(B) Served in the United States military or the Washington national guard during the twelve-month period prior to the application date, was honorably discharged from military service or the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market;

(C) Is currently serving in the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market; or

(D) Is disabled due to an injury or illness and, after assessment, is determined to be unable to return to his or her previous occupation and to need job-related training to find suitable employment in the individual's labor market.

(b)(i) The individual must develop an individual training program that is submitted to the commissioner for approval within ninety days after the individual is notified by the

employment security department of the requirements of this section;

(ii) The individual must enter the approved training program by one hundred twenty days after the date of the notification, unless the employment security department determines that the training is not available during the one hundred twenty days, in which case the individual enters training as soon as it is available;

(iii) The department may waive the deadlines established under this subsection for reasons deemed by the commissioner to be good cause.

(c) The individual must be enrolled in training approved under this section on a full-time basis as determined by the educational institution, except that less than full-time training may be approved when the individual has a physical, mental, or emotional disability that precludes enrollment on a full-time basis.

(d) The individual must make satisfactory progress in the training as defined by the commissioner and certified by the educational institution.

(e) An individual is not eligible for training benefits under this section if he or she:

(i) Is a standby claimant who expects recall to his or her regular employer; or

(ii) Has a definite recall date that is within six months of the date he or she is laid off.

(f) The following definitions apply throughout this subsection (1) unless the context clearly requires otherwise.

(i) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410, including equivalent educational institutions in other states.

(ii) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(iii) "Training benefits" means additional benefits paid under this section.

(iv) "Training program" means:

(A) An education program determined to be necessary as a prerequisite to vocational training after counseling at the educational institution in which the individual enrolls under his or her approved training program; or

(B) A vocational training program at an educational institution that:

(I) Is targeted to training for a high-demand occupation;

(II) Is likely to enhance the individual's marketable skills and earning power; and

(III) Meets the criteria for performance developed by the workforce training and education coordinating board for the purpose of determining those training programs eligible for funding under Title I of P.L. 113-128.

"Training program" does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or for specific skills necessary for the occupation.

(g) Benefits shall be paid as follows:

(i) The total training benefit amount shall be fifty-two times the individual's weekly benefit amount, reduced by the total amount of regular benefits and extended benefits paid, or deemed paid, with respect to the benefit year.

(ii) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits.

(iii) Training benefits shall be paid before any extended benefits but not before any similar federally funded program. Effective July 3, 2011, training benefits shall be paid after any federally funded program.

(iv) Training benefits are not payable for weeks more than two years beyond the end of the benefit year of the regular claim. However, training benefits are not payable for weeks more than three years beyond the end of the benefit year of the regular claim when individuals are eligible for benefits in accordance with RCW 50.22.010 (2)(b) or (3)(b).

(h) The requirement under RCW 50.22.010(10) relating to exhausting regular benefits does not apply to an individual otherwise eligible for training benefits under this section when the individual's benefit year ends before his or her training benefits are exhausted and the individual is eligible for a new benefit year. These individuals will have the option of remaining on the original claim or filing a new claim.

(i) Individuals who receive training benefits under RCW 50.22.150 or this section are not eligible for training benefits under this section for five years from the last receipt of training benefits.

(j) An individual eligible to receive a trade readjustment allowance under chapter 2, Title II of the trade act of 1974, as amended, shall not be eligible to receive benefits under this section for each week the individual receives such trade readjustment allowance.

(k) An individual eligible to receive emergency unemployment compensation under any federal law shall not be eligible to receive benefits under this section for each week the individual receives such compensation.

(l) All base year employers are interested parties to the approval of training and the granting of training benefits.

(m) Each local workforce development council, in cooperation with the employment security department and its labor market information division, must identify occupations and skill sets that are declining and high-demand occupations and skill sets. Each local workforce development council shall update this information annually or more frequently if needed.

(2) With respect to claims with an effective date on or after July 1, 2012:

(a) Training benefits are available for an individual who is eligible for or has exhausted entitlement to unemployment compensation benefits when:

(i) The individual is a dislocated worker as defined in RCW 50.04.075 and, after assessment of the individual's labor market, occupation, or skills, is determined to need job-related training to find suitable employment in the individual's labor market. The assessment of demand for the individual's occupation or skill sets must be substantially based on declining occupation or skill sets and high-demand occupations identified in local labor market areas by the local workforce development councils in cooperation with the employment security department and its labor market information division; or

(ii) Subject to the availability of funds as specified in RCW 50.22.140, the individual:

(A) Earned an average hourly wage in the individual's base year that is less than one hundred thirty percent of the state minimum wage and, after assessment, it is determined that the individual's earning potential will be enhanced through vocational training. The individual's average hourly wage is calculated by dividing the total wages paid by the total hours worked in the individual's base year;

(B) Served in the United States military or the Washington national guard during the twelve-month period prior to the application date, was honorably discharged from military service or the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market;

(C) Is currently serving in the Washington national guard and, after assessment, is determined to need job-related training to find suitable employment in the individual's labor market; or

(D) Is disabled due to an injury or illness and, after assessment, is determined to be unable to return to his or her previous occupation and to need job-related training to find suitable employment in the individual's labor market.

(b)(i) Except for an individual eligible under (a)(i) of this subsection, the individual must develop an individual training plan that is submitted to the commissioner for approval within ninety days after the individual is notified by the employment security department of the requirements of this section;

(ii) Except for an individual eligible under (a)(i) of this subsection, the individual must enroll in the approved training program by one hundred twenty days after the date of the notification, unless the employment security department determines that the training is not available during the one hundred twenty days, in which case the individual enters training as soon as it is available;

(iii) An individual eligible under (a)(i) of this subsection must submit an individual training plan and enroll in the approved training program prior to the end of the individual's benefit year;

(iv) The department may waive the deadlines established under (b)(i) and (ii) of this subsection for reasons deemed by the commissioner to be good cause.

(c) Except for an individual eligible under (a)(i) of this subsection, the individual must be enrolled in training approved under this section on a full-time basis as determined by the educational institution, except that less than full-time training may be approved when the individual has a physical, mental, or emotional disability that precludes enrollment on a full-time basis.

(d) The individual must make satisfactory progress in the training as defined by the commissioner and certified by the educational institution.

(e) An individual is not eligible for training benefits under this section if he or she:

(i) Is a standby claimant who expects recall to his or her regular employer; or

(ii) Has a definite recall date that is within six months of the date he or she is laid off.

(f) The following definitions apply throughout this subsection (2) unless the context clearly requires otherwise:

(i) "Educational institution" means an institution of higher education as defined in RCW 28B.10.016 or an educational institution as defined in RCW 28C.04.410, including equivalent educational institutions in other states.

(ii) "High-demand occupation" means an occupation with a substantial number of current or projected employment opportunities.

(iii) "Training benefits" means additional benefits paid under this section.

(iv) "Training program" means:

(A) An education program determined to be necessary as a prerequisite to vocational training after counseling at the educational institution in which the individual enrolls under his or her approved training program; or

(B) A vocational training program at an educational institution that:

(I) Is targeted to training for a high-demand occupation;

(II) Is likely to enhance the individual's marketable skills and earning power; and

(III) Meets the criteria for performance developed by the workforce training and education coordinating board for the purpose of determining those training programs eligible for funding under Title I of P.L. 113-128.

"Training program" does not include any course of education primarily intended to meet the requirements of a baccalaureate or higher degree, unless the training meets specific requirements for certification, licensing, or for specific skills necessary for the occupation.

(g) Available benefits shall be paid as follows:

(i) The total training benefit amount shall be fifty-two times the individual's weekly benefit amount, reduced by the total amount of regular benefits paid, or deemed paid, with respect to the benefit year.

(ii) The weekly benefit amount shall be the same as the regular weekly amount payable during the applicable benefit year and shall be paid under the same terms and conditions as regular benefits.

(iii) Training benefits shall be paid after any federally funded program.

(iv) Training benefits are not payable for weeks more than two years beyond the end of the benefit year of the regular claim. However, training benefits are not payable for weeks more than three years beyond the end of the benefit year of the regular claim when individuals are eligible for benefits in accordance with RCW 50.22.010 (2)(b) or (3)(b).

(h) The requirement under RCW 50.22.010(10) relating to exhausting regular benefits does not apply to an individual otherwise eligible for training benefits under this section when the individual's benefit year ends before his or her training benefits are exhausted and the individual is eligible for a new benefit year. These individuals will have the option of remaining on the original claim or filing a new claim.

(i) Except for individuals eligible under (a)(i) of this subsection, individuals who receive training benefits under RCW 50.22.150 or this section are not eligible for training benefits under this section for five years from the last receipt of training benefits.

(j) An individual eligible to receive a trade readjustment allowance under chapter 2, Title II of the trade act of 1974, as amended, shall not be eligible to receive benefits under this

section for each week the individual receives such trade readjustment allowance.

(k) An individual eligible to receive emergency unemployment compensation under any federal law shall not be eligible to receive benefits under this section for each week the individual receives such compensation.

(l) All base year employers are interested parties to the approval of training and the granting of training benefits.

(m) Each local workforce development council, in cooperation with the employment security department and its labor market information division, must identify occupations and skill sets that are declining and high-demand occupations and skill sets. Each local workforce development council shall update this information annually or more frequently if needed.

(3) The commissioner shall adopt rules as necessary to implement this section. [2017 c 39 § 9. Prior: 2011 c 4 § 9; (2011 c 4 § 6 expired July 1, 2012); 2011 c 3 § 2; 2009 c 3 § 4.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Contingent expiration date—2011 c 4 §§ 3 and 6: See note following RCW 50.29.021.

Effective date—2011 c 4 §§ 1-6 and 16-21: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Conflict with federal requirements—Effective date—2011 c 3: See notes following RCW 50.22.010.

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.22.157 Training benefits program—Report—Program review and evaluation. (1) The employment security department shall report to the appropriate committees of the legislature by December 1, 2016, and every five years thereafter, on the status of the training benefits program and the resulting outcomes. The report shall include a survey based assessment of the employment outcomes for program participants within the previous three years. The department shall also include in its report:

(a) A demographic analysis of participants in the training benefits program under this section including the number of claimants per North American industry classification system code and the gender, race, age, and geographic representation of participants;

(b) The duration of training benefits claimed per claimant;

(c) An analysis of the training provided to participants including the occupational category supported by the training, whether the training received would lead to employment in a high-demand occupation, whether a degree or certificate is required in that occupational category to obtain employment, those participants who complete training in relationship to those that do not, the number of participants who take courses in basic language, reading, or writing skills to improve their employability, and the reasons for noncompletion of approved training programs;

(d) The employment and wage history of participants, including the pretraining and posttraining wage, the type of work participants were engaged in prior to unemployment, and whether those participating in training return to their pre-

vious employer within two years of receiving training, or are employed in a field for which they were retrained;

(e) An identification and analysis of administrative costs at both the local and state level for administering this program;

(f) A projection of program costs for the next fiscal year; and

(g) The total funds obligated for training benefits, and the net balance remaining to be obligated subject to the restrictions of RCW 50.22.140.

(2) The joint legislative audit and review committee is directed to conduct a thorough review and evaluation of the training benefits program on the following schedule:

(a) Three years after the implementation of the training benefits portion of chapter 4, Laws of 2011 and every five years thereafter; and

(b) In any year in which the employment security department is required to suspend obligation of training benefits funds pursuant to RCW 50.22.140(2), or total expenditures exceed twenty-five million dollars.

(3) As part of the review conducted under subsection (2) of this section, the joint legislative audit and review committee shall:

(a) Assess whether the program is complying with legislative intent;

(b) Assess whether the program is effective;

(c) Assess whether the program is operating in an efficient and economical manner which results in optimum performance; and

(d) Make recommendations on how to improve the training benefits program.

(4) After a review of the training benefits program has been completed by the joint legislative audit and review committee, the appropriate committees of the legislature must hold a public hearing on the review and consider potential changes to improve the program. [2016 c 197 § 6; 2011 c 4 § 15; 2009 c 3 § 6.]

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

Chapter 50.24 RCW

CONTRIBUTIONS BY EMPLOYERS

Sections

50.24.010	Payment of contributions—Amount of wages subject to tax—Wages paid by employers making payments in lieu of contributions not remuneration.
50.24.014	Financing special unemployment assistance—Financing the employment security department's administrative costs—Accounts—Contributions.
50.24.015	Wages—Deemed paid when contractually due.
50.24.020	Authority to compromise.
50.24.030	Contributions erroneously paid to United States or another state.
50.24.040	Interest on delinquent contributions.
50.24.050	Lien for contributions generally.
50.24.060	Lien in event of insolvency or dissolution.
50.24.070	Order and notice of assessment.
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50.24.090	Distrain, seizure, and sale.
50.24.100	Distrain procedure.
50.24.110	Notice and order to withhold and deliver.

50.24.115	Warrant—Authorized—Filing—Lien—Enforcement.
50.24.120	Collection by civil action.
50.24.125	Collection by civil action—Collection of delinquent payments in lieu of contributions from political subdivisions or instrumentalities thereof.
50.24.130	Contractor's and principal's liability for contributions—Exceptions.
50.24.140	Collection remedies cumulative.
50.24.150	Contribution adjustments and refunds.
50.24.160	Election of coverage.
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50.24.190	Limitation of actions.
50.24.200	Chargeoff of uncollectible accounts.
50.24.210	Contributions due and payable upon termination or disposal of business—Successor liability.
50.24.220	Client employer liability—Collection.
50.24.230	Corporate or limited liability company officers, members, and owners—Personal liability.

50.24.010 Payment of contributions—Amount of wages subject to tax—Wages paid by employers making payments in lieu of contributions not remuneration. 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 established pursuant to chapter 50.29 RCW.

In each rate year, the amount of wages subject to tax for each individual shall be one hundred fifteen percent of the amount of wages subject to tax for the previous year rounded to the next lower one hundred dollars, except that the amount of wages subject to tax in any rate year shall not exceed eighty percent of the "average annual wage for contributions purposes" for the second preceding calendar year rounded to the next lower one hundred dollars. However, the amount subject to tax shall be twenty-four thousand three hundred dollars for rate year 2000.

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. [2000 c 2 § 2; 1984 c 205 § 2; 1977 ex.s. c 33 § 9; 1971 c 3 § 13; 1970 ex.s. c 2 § 8; 1949 c 214 § 18; 1945 c 35 § 89; Rem.

Supp. 1949 § 9998-227. Prior: 1943 c 127 § 5; 1941 c 253 § 5; 1939 c 214 § 5; 1937 c 162 § 7.]

Reviser's note: Referendum Measure No. 53 was rejected by the voters at the November 2002 election. This section has been returned to the status existing before its amendment by 2002 c 149.

Additional notes found at www.leg.wa.gov

50.24.014 Financing special unemployment assistance—Financing the employment security department's administrative costs—Accounts—Contributions. (1)(a) A separate and identifiable account to provide for the financing of special programs to assist the unemployed is established in the administrative contingency fund. All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become 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, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, at a basic rate of two one-hundredths of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010.

(b) A separate and identifiable account is established in the administrative contingency fund for financing the employment security department's administrative costs under RCW 50.22.150 and 50.22.155 and the costs under RCW 50.22.150(11) and 50.22.155 (1)(m) and (2)(m). All money in this account shall be expended solely for the purposes of this title and for no other purposes whatsoever. Contributions to this account shall accrue and become 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, taxable local government employers as described in RCW 50.44.035, those employers who are required to make payments in lieu of contributions, those employers described under RCW 50.29.025(2)(d), and those qualified employers assigned rate class 20 or rate class 40, as applicable, under RCW 50.29.025, at a basic rate of one one-hundredth of one percent. The amount of wages subject to tax shall be determined under RCW 50.24.010. Any amount of contributions payable under this subsection (1)(b) that exceeds the amount that would have been collected at a rate of four one-thousandths of one percent must be deposited in the account created in (a) of this subsection.

(2)(a) Contributions under this section shall become due and be paid by each employer under 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.

(b) 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.

(3) If the commissioner determines that federal funding has been increased to provide financing for the services specified in chapter 50.62 RCW, the commissioner shall direct that collection of contributions under this section be terminated on the following January 1st.

(4) During the 2015-2017 fiscal biennium, the legislature may transfer into the unrestricted administrative contingency fund and into the state general fund from the account in subsection (1)(b) of this section such amounts as reflect the excess fund balance of the account. [2016 sp.s. c 36 § 941; 2011 c 4 § 11; 2009 c 566 § 2; 2007 c 327 § 2; 2006 c 13 § 20. Prior: 2003 2nd sp.s. c 4 § 25; 2000 c 2 § 15; prior: 1998 c 346 § 901; 1998 c 161 § 7; 1994 c 187 § 3; 1993 c 483 § 20; 1987 c 171 § 4; 1985 ex.s. c 5 § 8.]

Effective date—2016 sp.s. c 36: See note following RCW 18.20.430.

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Findings—Intent—2009 c 566: "(1) The legislature finds that:

(a) This is a time of great economic difficulty for the residents of Washington state;

(b) Education and training provides opportunity for unemployed workers and economically disadvantaged adults to move into living wage jobs and is of critical importance to the current and future prosperity of the residents of Washington state;

(c) Community and technical college workforce training programs, private career schools and colleges, and Washington state apprenticeship and training council-approved apprenticeship programs provide effective and efficient pathways for people to enter high-demand occupations while also meeting the needs of the economy;

(d) The identification of high-demand occupations needs to be based on reliable labor market research; and

(e) Workforce development councils are in a position to provide funding for economically disadvantaged adults and unemployed workers to access training.

(2) Consistent with the intent of the workforce investment act adult and dislocated worker program provisions of the American recovery and reinvestment act of 2009, the legislature intends that individuals who are eligible for services under the workforce investment act adult and dislocated worker programs, or are receiving or have exhausted entitlement to unemployment compensation benefits be provided the opportunity to enroll in training programs to prepare for a high-demand occupation." [2009 c 566 § 1.]

Effective date—2009 c 566: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 19, 2009]." [2009 c 566 § 8.]

Finding—Intent—1998 c 161: See note following RCW 50.20.140.

Additional notes found at www.leg.wa.gov

50.24.015 Wages—Deemed paid when contractually due. 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. [1973 1st ex.s. c 158 § 19.]

Additional notes found at www.leg.wa.gov

50.24.020 Authority to compromise. The commissioner may compromise any claim for contributions, interest, or penalties due and owing from an employer, and any amount owed by an individual because of benefit overpayments existing or arising under this title in any case where collection of the full amount due and owing, whether reduced to judgment or otherwise, would be against equity and good conscience.

Whenever a compromise is made by the commissioner in the case of a claim for contributions, interest, or penalties, whether reduced to judgment or otherwise, there shall be placed on file in the office of the unemployment compensation division a statement of the amount of contributions,

interest, and penalties imposed by law and claimed due, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement. Whenever a compromise is made by the commissioner in the case of a claim of a benefit overpayment, whether reduced to judgment or otherwise, there shall be placed on file in the office of the unemployment compensation division a statement of the amount of the benefit overpayment, attorneys' fees and costs, if any, a complete record of the compromise agreement, and the amount actually paid in accordance with the terms of the compromise agreement.

If any such compromise is accepted by the commissioner, within such time as may be stated in the compromise or agreed to, such compromise shall be final and conclusive and except upon showing of fraud or malfeasance or misrepresentation of a material fact the case shall not be reopened as to the matters agreed upon. In any suit, action, or proceeding, such agreement or any determination, collection, payment, adjustment, refund, or credit made in accordance therewith shall not be annulled, modified, set aside, or disregarded. [2013 c 122 § 1; 1983 1st ex.s. c 23 § 14; 1955 c 286 § 5; 1945 c 35 § 90; Rem. Supp. 1945 § 9998-228.]

Conflict with federal requirements—2013 c 122: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 122 § 2.]

Effective date—2013 c 122: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [May 3, 2013]." [2013 c 122 § 4.]

Retroactive application—2013 c 122: "Section 1 of this act applies retroactively to January 1, 2013." [2013 c 122 § 5.]

Additional notes found at www.leg.wa.gov

50.24.030 Contributions erroneously paid to United States or another state. Payments of contributions erroneously paid to an unemployment compensation fund of another state or to the United States government which should have been paid to this state and which thereafter shall be refunded by such other state or the United States government and paid by the employer to this state, shall be deemed to have been paid to this state and to have filed contribution reports thereon at the date of payment to the United States government or such other state. [1953 ex.s. c 8 § 15; 1949 c 214 § 19; 1945 c 35 § 91; Rem. Supp. 1949 § 9998-229.]

50.24.040 Interest on delinquent contributions. 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 or her. 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 adminis-

trative 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. [2010 c 8 § 13027; 1987 c 111 § 3; 1973 1st ex.s. c 158 § 8; 1953 ex.s. c 8 § 16; 1945 c 35 § 92; Rem. Supp. 1945 § 9998-230. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

Additional notes found at www.leg.wa.gov

50.24.050 Lien for contributions generally. The claim of the employment security department for any contributions, interest, or penalties 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 and rights to property, whether real or personal, belonging to the employer. In order to avail itself of the lien hereby created, the department shall file with any county auditor where property of the employer is located a statement and claim of lien specifying the amount of delinquent contributions, interest, and penalties claimed by the department. 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 or her. 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, interest, and penalties have been paid, or when such assurance of payment shall be made as the commissioner may deem to be adequate. 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. [2010 c 8 § 13028; 1981 c 302 § 39; 1979 ex.s. c 190 § 2; 1973 1st ex.s. c 158 § 9; 1947 c 215 § 19; 1945 c 35 § 93; Rem. Supp. 1947 § 9998-231. Prior: 1943 c 127 § 10; 1941 c 253 § 11; 1939 c 214 § 12; 1937 c 162 § 14.]

Penalties for late reports or contributions: RCW 50.12.220.

Additional notes found at www.leg.wa.gov

50.24.060 Lien in event of insolvency or dissolution. In the event of any distribution of an employer's assets pursuant to an order of any court, including any receivership, probate, legal dissolution, or similar proceeding, or in case of any assignment for the benefit of creditors, composition, or similar proceeding, contributions, interest, or penalties then or thereafter due shall be a lien upon all the assets of such

employer. Said lien will be prior to all other liens or claims except prior tax liens, other liens provided by this title, and claims for remuneration for services of not more than two hundred and fifty dollars to each claimant earned within six months of the commencement of the proceeding. The mere existence of a condition of insolvency or the institution of any judicial proceeding for legal dissolution or of any proceeding for distribution of assets shall cause such a lien to attach without action on behalf of the commissioner or the state. In the event of an employer's adjudication in bankruptcy, judicially confirmed extension proposal, or composition, under the federal bankruptcy act of 1898, as amended, contributions, interest, or penalties then or thereafter due shall be entitled to such priority as provided in that act, as amended. [1983 1st ex.s. c 23 § 15; 1945 c 35 § 94; Rem. Supp. 1945 § 9998-232. Prior: 1943 c 127 § 10; 1941 c 253 § 11; 1939 c 214 § 12; 1937 c 162 § 14.]

Additional notes found at www.leg.wa.gov

50.24.070 Order and notice of assessment. At any time after the commissioner shall find that any contributions, interest, or penalties have become delinquent, the commissioner may issue an order and notice of assessment specifying the amount due, which order and notice of assessment shall be served upon the delinquent employer in the manner prescribed for the service of a summons in a civil action, or using a method by which the mailing can be tracked or the delivery can be confirmed. Failure of the employer to receive such notice or order whether served or mailed shall not release the employer from any tax, or any interest or penalties thereon. [2011 c 301 § 18; 1987 c 111 § 4; 1979 ex.s. c 190 § 3; 1945 c 35 § 95; Rem. Supp. 1945 § 9998-233. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

Commencement of actions: Chapter 4.28 RCW.

Additional notes found at www.leg.wa.gov

50.24.080 Jeopardy assessment. If the commissioner shall have reason to believe that an employer is insolvent or if any reason exists why the collection of any contributions accrued will be jeopardized by delaying collection, he or she may make an immediate assessment thereof and may proceed to enforce collection immediately, but interest and penalties shall not begin to accrue upon any contributions until the date when such contributions would normally have become delinquent. [2010 c 8 § 13029; 1979 ex.s. c 190 § 4; 1945 c 35 § 96; Rem. Supp. 1945 § 9998-234. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

50.24.090 Distraint, seizure, and sale. If the amount of contributions, interest, or penalties assessed by the commissioner by order and notice of assessment provided in this title is not paid within ten days after the service or mailing of the order and notice of assessment, the commissioner or his or her duly authorized representative may collect the amount stated in said assessment by the distraint, seizure, and sale of the property, goods, chattels, and effects of said delinquent employer. There shall be exempt from distraint and sale under this section such goods and property as are exempt from execution under the laws of this state. [2010 c 8 § 13030; 1979 ex.s. c 190 § 5; 1945 c 35 § 97; Rem. Supp. 1945 § 9998-235. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

Executions: Chapter 6.17 RCW.

Personal exemptions, generally: Chapter 6.15 RCW.

50.24.100 Distraint procedure. The commissioner, upon making a distraint, shall seize the property and shall make an inventory of the property distrained, a copy of which shall be mailed to the owner of such property or personally delivered to him or her, and shall specify the time and place when said property shall be sold. A notice specifying the property to be sold and the time and place of sale shall be posted in at least two public places in the county wherein the seizure has been made. The time of sale shall be not less than ten nor more than twenty days from the date of posting of such notices. Said sale may be adjourned from time to time at the discretion of the commissioner, but not for a time to exceed in all sixty days. Said sale shall be conducted by the commissioner or his or her authorized representative who shall proceed to sell such property by parcel or by lot at a public auction, and who may set a minimum price to include the expenses of making a levy and of advertising the sale, and if the amount bid for such property at the sale is not equal to the minimum price so fixed, the commissioner or his or her representative may declare such property to be purchased by the employment security department for such minimum price. In such event the delinquent account shall be credited with the amount for which the property has been sold. Property acquired by the employment security department as herein prescribed may be sold by the commissioner or his or her representative at public or private sale, and the amount realized shall be placed in the unemployment compensation trust fund.

In all cases of sale, as aforesaid, the commissioner shall issue a bill of sale or a deed to the purchaser and said bill of sale or deed shall be prima facie evidence of the right of the commissioner to make such sale and conclusive evidence of the regularity of his or her proceeding in making the sale, and shall transfer to the purchaser all right, title, and interest of the delinquent employer in said property. The proceeds of any such sale, except in those cases wherein the property has been acquired by the employment security department, shall be first applied by the commissioner in satisfaction of the delinquent account, and out of any sum received in excess of the amount of delinquent contributions, interest, and penalties the administration fund shall be reimbursed for the costs of distraint and sale. Any excess which shall thereafter remain in the hands of the commissioner shall be refunded to the delinquent employer. Sums so refundable to a delinquent employer may be subject to seizure or distraint in the hands of the commissioner by any other taxing authority of the state or its political subdivisions. [2010 c 8 § 13031; 1979 ex.s. c 190 § 6; 1949 c 214 § 20; 1945 c 35 § 98; Rem. Supp. 1949 § 9998-236. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

50.24.110 Notice and order to withhold and deliver. The commissioner is hereby authorized to issue to any person, firm, corporation, political subdivision, or department of the state, a notice and order to withhold and deliver property of any kind whatsoever when the commissioner has reason to believe that there is in the possession of such person, firm, corporation, political subdivision, or department, property which is due, owing, or belonging to any person, firm, or cor-

poration upon whom the department has served a benefit overpayment assessment or a notice and order of assessment for unemployment compensation contributions, interest, or penalties. The effect of a notice to withhold and deliver shall be continuous from the date such notice and order to withhold and deliver is first made until the liability is satisfied or becomes unenforceable because of a lapse of time.

The notice and order to withhold and deliver shall be served by the sheriff or the sheriff's deputy of the county wherein the service is made, using a method by which the mailing can be tracked or the delivery can be confirmed, or by any duly authorized representative of the commissioner. Any person, firm, corporation, political subdivision, or department upon whom service has been made is hereby required to answer the notice within twenty days exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of in the notice.

In the event there is in the possession of any such person, firm, corporation, political subdivision, or department, any property which may be subject to the claim of the employment security department of the state, such property shall be delivered forthwith to the commissioner or the commissioner's duly authorized representative upon demand to be held in trust by the commissioner for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability, or in the alternative, there shall be furnished a good and sufficient bond satisfactory to the commissioner conditioned upon final determination of liability.

Should any person, firm, or corporation fail to make answer to an order to withhold and deliver within the time prescribed herein, it shall be lawful for the court, after the time to answer such order has expired, to render judgment by default against such person, firm, or corporation for the full amount claimed by the commissioner in the notice to withhold and deliver, together with costs. [2011 c 301 § 19; 1990 c 245 § 6; 1987 c 111 § 5; 1979 ex.s. c 190 § 7; 1947 c 215 § 20; 1945 c 35 § 99; Rem. Supp. 1947 § 9998-237.]

Additional notes found at www.leg.wa.gov

50.24.115 Warrant—Authorized—Filing—Lien—Enforcement. 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, penalties, and a filing fee under RCW 36.18.012(10). 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, penalties, 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 under RCW 36.18.012(10), 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 using a method by which the mailing can be tracked or the delivery can be confirmed within five days of filing with the clerk. [2011 c 301 § 20; 2010 c 8 § 13032; 2001 c 146 § 8; 1983 1st ex.s. c 23 § 16; 1979 ex.s. c 190 § 8; 1975 1st ex.s. c 228 § 15.]

Additional notes found at www.leg.wa.gov

50.24.120 Collection by civil action. (1) If after due notice, any employer defaults in any payment of contributions, interest, or penalties, the amount due may be collected by civil action in the name of the state, and the employer adjudged in default shall pay the cost of such action. Any lien created by this title may be foreclosed by decree of the court in any such action. Civil actions brought under this title to collect contributions, interest, or penalties from an employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this title and cases arising under the industrial insurance laws of this state.

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

(3) The courts of this state shall in the manner provided in subsections (1) and (2) of this section entertain actions to collect contributions, interest, or penalties for which liability has accrued under the employment security law of any other state or of the federal government. [1979 ex.s. c 190 § 9; 1959 c 266 § 5; 1953 ex.s. c 8 § 17; 1945 c 35 § 100; Rem. Supp. 1945 § 9998-238. Prior: 1943 c 127 § 10.]

Civil procedure: Title 4 RCW.

Industrial insurance: Title 51 RCW.

50.24.125 Collection by civil action—Collection of delinquent payments in lieu of contributions from political subdivisions or instrumentalities thereof. Delinquent payments in lieu of contributions due the unemployment compensation fund and interest and penalties may be recovered from any of the political subdivisions of this state or any

instrumentality of a political subdivision of this state by civil action. The governor is authorized to deduct the amount of delinquent payments in lieu of contributions and interest and penalties from any moneys payable by the state to said political subdivisions or instrumentalities and pay such moneys to the commissioner for deposit in the appropriate account. [1979 ex.s. c 190 § 10; 1971 c 3 § 15.]

Additional notes found at www.leg.wa.gov

50.24.130 Contractor's and principal's liability for contributions—Exceptions. 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 or on account of any contract or contracts to which said employing unit is a party unless such contractor or subcontractor has paid contributions, due or to become due for wages paid or to be paid by such contractor or subcontractor for personal services performed pursuant to such contract or subcontract, or has furnished a good and sufficient bond acceptable to the commissioner for payment of contributions, interest, and penalties. Failure to comply with the provisions of this section shall render said employing unit directly liable for such contributions, interest, and penalties 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.

For the purposes of this section, a contractor registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW shall not be responsible for any contributions for the work of any subcontractor if:

(1) The subcontractor is currently engaging in a business which is registered under chapter 18.27 RCW or licensed under chapter 19.28 RCW;

(2) There is no other person, firm or corporation doing the same work at the same time on the same project except two or more persons, firms or corporations may contract and do the same work at the same time on the same project if each person, firm or corporation has employees;

(3) The subcontractor has a principal place of business which would be eligible for a business deduction for internal revenue service tax purposes other than that furnished by the contractor for which the business has contracted to furnish services;

(4) The subcontractor maintains a separate set of books or records that reflect all items of income and expenses of the business; and

(5) The subcontractor has contracted to perform:

(a) The work of a contractor as defined in RCW 18.27.010; or

(b) The work of installing wires or equipment to convey electric current or installing apparatus to be operated by such current as it pertains to the electrical industry as described in chapter 19.28 RCW. [1982 1st ex.s. c 18 § 15; 1979 ex.s. c 190 § 11; 1973 1st ex.s. c 158 § 10; 1949 c 214 § 21; 1945 c 35 § 101; Rem. Supp. 1949 § 9998-239.]

Music or entertainment services purchasers, liability for unpaid contributions: RCW 50.04.148.

Additional notes found at www.leg.wa.gov

50.24.140 Collection remedies cumulative. Remedies given to the state under this title for the collection of contributions, interest, or penalties shall be cumulative and no action taken by the commissioner or his or her duly authorized representative, the attorney general, or any other officer shall be construed to be an election on the part of the state or any of its officers to pursue any remedy to the exclusion of any other. [2010 c 8 § 13033; 1979 ex.s. c 190 § 12; 1945 c 35 § 102; Rem. Supp. 1945 § 9998-240. Prior: 1943 c 127 § 10.]

50.24.150 Contribution adjustments and refunds. No later than three years after the date on which any contributions, interest, or penalties have been paid, an employer who has paid such contributions, interest, or penalties may file with the commissioner a petition in writing for an adjustment thereof in connection with subsequent contribution payments or for a refund thereof when such adjustment cannot be made. If the commissioner upon an ex parte consideration shall determine that such contributions, interest, penalties, or portion thereof were erroneously collected, he or she shall allow such employer to make an adjustment thereof without interest in connection with subsequent contribution payments by him or her, or if such adjustment cannot be made, the commissioner shall refund said amount without interest from the unemployment compensation fund: PROVIDED, HOWEVER, That after June 20, 1953, that refunds of interest on delinquent contributions or penalties shall be paid from the administrative contingency fund upon warrants issued by the treasurer under the direction of the commissioner. For like cause and within the same period, adjustment or refund may be made on the commissioner's own initiative. If the commissioner finds that upon ex parte consideration he or she cannot readily determine that such adjustment or refund should be allowed, he or she shall deny such application and notify the employer in writing. [2010 c 8 § 13034; 1979 ex.s. c 190 § 13; 1953 ex.s. c 8 § 19; 1945 c 35 § 103; Rem. Supp. 1945 § 9998-241. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

50.24.160 Election of coverage. Except as provided in RCW 50.04.165, any employing unit for which services that do not constitute employment as defined in this title are performed may file with the commissioner a written election that all such services performed by any distinct class or group of individuals or by all individuals in its employment in one or more distinct establishments or places of business shall be deemed to constitute employment for all the purposes of this title for at least two calendar years. Upon the written approval of such election by the commissioner, such services shall be deemed to constitute employment subject to this title on and after the date stated in the approval. Services covered under this section shall cease to be deemed employment as of January 1st of any calendar year subsequent to the two-calendar year period, only if the employing unit files with the commissioner before January 15th of that year a written application for termination of coverage. Services for which an employing unit may elect coverage include, but are not limited to, maritime service as described in RCW 50.04.170. [2013 c 75 § 1; 2007 c 146 § 6; 1977 ex.s. c 292 § 12; 1972 ex.s. c 35 § 1; 1971 c 3 § 14; 1959 c 266 § 6; 1951 c 265 § 8; 1951 c 215 § 9; 1945 c 35 § 104; Rem. Supp. 1945 § 9998-242.]

(2019 Ed.)

Conflict with federal requirements—2013 c 75: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 75 § 3.]

Corporate officers, election of coverage: RCW 50.04.165.

Additional notes found at www.leg.wa.gov

50.24.170 Joint accounts. (1) The commissioner shall prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by two or more employers, and shall, in accordance with such regulations and upon application by two or more employers to establish such account, or to merge their several individual accounts in a joint account, maintain such joint account as if it constituted a single employer's account.

(2) Joint accounts may not be established for professional employer organizations, as defined in RCW 50.04.298, or third-party payers, as defined in RCW 50.04.248, and their clients. [2007 c 146 § 17; 1945 c 35 § 105; Rem. Supp. 1945 § 9998-243. Prior: 1941 c 253 § 5.]

Additional notes found at www.leg.wa.gov

50.24.180 Injunction proceedings. Any employer who shall be delinquent in the payment of contributions, interest, or penalties may be enjoined upon the suit of the state of Washington from continuing in business in this state or employing persons herein until the delinquent contributions, interest, and penalties shall have been paid, or until the employer shall have furnished a good and sufficient bond in a sum equal to double the amount of contributions, interest, and penalties already delinquent, plus such further sum as the court shall deem adequate to protect the department in the collection of contributions, interest, and penalties which will become due from such employer during the next ensuing calendar year, said bond to be conditioned upon payment of all contributions, interest, and penalties due and owing within thirty days after the expiration of the next ensuing calendar year or at such earlier date as the court may fix.

Action pursuant to the provisions of this section may be instituted in the superior court of any county of the state wherein the employer resides, has its principal place of business, or where it has anyone performing services for it, whether or not such services constitute employment. [1979 ex.s. c 190 § 14; 1945 c 35 § 106; Rem. Supp. 1945 § 998-244. Prior: 1943 c 127 § 10; 1941 c 253 § 11.]

50.24.190 Limitation of actions. The commissioner shall commence action for the collection of contributions, interest, penalties, and benefit overpayments imposed by this title by assessment or suit within three years after a return is filed or notice of benefit overpayment is served. No proceedings for the collection of such amounts shall be begun after the expiration of such period.

In case of a false or fraudulent return with intent to evade contributions, interest, or penalties, or in the event of a failure to file a return, the contributions, interest, and penalties may be assessed or a proceeding in court for the collection thereof

may be begun at any time. [1979 ex.s. c 190 § 15; 1955 c 286 § 7. Prior: 1947 c 215 § 21, part; 1945 c 35 § 107, part; 1943 c 127 § 10, part; Rem. Supp. 1947 § 9998-245, part.]

50.24.200 Chargeoff of uncollectible accounts. The commissioner may charge off as uncollectible and no longer an asset of the unemployment compensation fund or the administrative contingency fund, as the case may be, any delinquent contributions, interest, penalties, credits, or benefit overpayments if the commissioner is satisfied that there are no cost-effective means of collecting the contributions, interest, penalties, credits, or benefit overpayments. [1989 c 78 § 1; 1979 ex.s. c 190 § 16; 1955 c 286 § 8. Prior: 1947 c 215 § 21, part; 1945 c 35 § 107, part; Rem. Supp. 1947 § 9998-245, part.]

50.24.210 Contributions due and payable upon termination or disposal of business—Successor liability. Whenever any employer quits business, or sells out, exchanges, or otherwise disposes of the employer's business or stock of goods, any contributions payable under this title shall become immediately due and payable, and the employer shall, within ten days, make a return and pay the contributions due; and any person who becomes a successor to such business shall become liable for the full amount of the contributions and withhold from the purchase price a sum sufficient to pay any contributions due from the employer until such time as the employer produces a receipt from the employment security department showing payment in full of any contributions due or a certificate that no contribution is due and, if such contribution is not paid by the employer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of contributions, and the payment thereof by such successor shall, to the extent thereof, be deemed a payment upon the purchase price, and if such payment is greater in amount than the purchase price the amount of the difference shall become a debt due such successor from the employer.

No successor may be liable for any contributions due from the person from whom that person has acquired a business or stock of goods if that person gives written notice to the employment security department of such acquisition and no assessment is issued by the department within one hundred eighty days of receipt of such notice against the former operator of the business and a copy thereof mailed to such successor. [1991 c 117 § 4.]

Additional notes found at www.leg.wa.gov

50.24.220 Client employer liability—Collection. (1) The client employer of a professional employer organization is liable for the payment of any taxes, interest, or penalties due.

(2) The professional employer organization may collect and pay taxes due to the department for unemployment insurance coverage from its client employers in accordance with its professional employer agreement. If such payments have been made to the professional employer organization by the client employer, the department shall first attempt to collect the contributions due from the professional employer organization.

(3) To collect any contributions, penalties, or interest due to the department from the professional employer organization, the department must follow the procedures contained in chapter 50.24 RCW. If the amount of contributions, interest, or penalties assessed by the commissioner pursuant to chapter 50.24 RCW is not paid by the professional employer organization within ten days, then the commissioner may follow the collection procedures in chapter 50.24 RCW. After the ten-day period, if the professional employer organization has not paid the total amount owing, the commissioner may also pursue the client employer to collect what is owed using the procedures contained in chapter 50.24 RCW. [2007 c 146 § 11.]

Additional notes found at www.leg.wa.gov

50.24.230 Corporate or limited liability company officers, members, and owners—Personal liability. (1) Upon termination, dissolution, or abandonment of a corporate or limited liability company business, any officer, member, or owner who, having control or supervision of payment of unemployment tax contributions under RCW 50.24.010 or 50.24.014: (a) Willfully evades any contributions imposed under this title; (b) willfully destroys, mutilates, or falsifies any book, document, or record; or (c) willfully fails to truthfully account for, or makes under oath, any false statement relating to the financial condition of the corporation or limited liability company business, is personally liable for any unpaid contributions and interest and penalties on those contributions. For purposes of this section, "willfully" means an intentional, conscious, and voluntary course of action.

(2) Persons liable under subsection (1) of this section are liable only for contributions that became due during the period he or she had the control, supervision, responsibility, or duty to act for the corporation or limited liability company, plus interest and penalties on those contributions.

(3) Persons liable under subsection (1) of this section are exempt from liability if all of the assets of the corporation or limited liability company have been applied to its debts through bankruptcy or receivership.

(4) Any person having been issued a notice of assessment under this section is entitled to the appeal procedures under chapter 50.32 RCW.

(5) This section applies only when the employment security department determines that there is no reasonable means of collecting the contributions owed directly from the corporation or limited liability company.

(6) This section does not relieve the corporation or limited liability company of other tax liabilities under this title or impair other tax collection remedies afforded by law.

(7) Collection authority and procedures described in this chapter apply to collections under this section. [2007 c 146 § 18.]

Additional notes found at www.leg.wa.gov

Chapter 50.29 RCW EMPLOYER EXPERIENCE RATING

Sections

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50.29.025	Contribution rates (<i>as amended by 2011 c 4</i>).
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50.29.080	Redetermination and correction of employer's contribution rate.
50.29.090	Contribution rates for client employers.

50.29.010 Definitions. As used in this chapter:

- (1) "Computation date" means July 1st of any year;
- (2) "Cut-off date" means September 30th next following the computation date;
- (3) "Payroll" means all wages (as defined for contribution purposes) paid by an employer to individuals in his or her employment;
- (4) "Qualification date" means April 1st of the second year preceding the computation date;
- (5) "Qualified employer" means any employer who (a) reported some employment in the twelve-month period beginning with the qualification date, (b) had no period of four or more consecutive calendar quarters for which he or she reported no employment in the two calendar years immediately preceding the computation date, and (c) has submitted by the cut-off date all reports, contributions, interest, and penalties required under this title for the period preceding the computation date. Unpaid contributions, interest, and penalties must be disregarded for the purposes of this section if they constitute less than either one hundred dollars or one-half of one percent of the employer's total tax reported for the twelve-month period immediately preceding the computation date. Late reports, contributions, penalties, or interest may be disregarded for the purposes of this section if showing is made to the satisfaction of the commissioner, as the commissioner may define by rule, 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;
- (6) "Rate year" means the calendar year immediately following the computation date. [2009 c 83 § 1; 2002 c 149 § 11; 1987 c 213 § 2; 1986 c 111 § 1; 1984 c 205 § 3; 1983 1st ex.s. c 23 § 17; 1973 1st ex.s. c 158 § 11; 1971 c 3 § 16; 1970 ex.s. c 2 § 10.]

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

Conflict with federal requirements—2009 c 83: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2009 c 83 § 2.]

Wages defined for contribution purposes: RCW 50.04.320.

Additional notes found at www.leg.wa.gov

50.29.020 Experience rating accounts—Benefits not charged—Claims with an effective date before January 4, 2004. (1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date before January 4, 2004.

(2) An experience rating account shall be established and maintained for 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, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department. Benefits paid to any eligible individuals shall be charged to the experience rating accounts of each of such individual's employers during the individual's 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 as otherwise provided in this section.

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010 and 50.44.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, 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 filing under the provisions of chapter 50.06 RCW shall not be charged to the experience rating account of any contribution paying employer only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Individuals who qualify for benefits under *RCW 50.20.050(1)(b)(iv) shall not have their benefits charged to the experience rating account of any contribution paying employer.

(f) In the case of individuals identified under **RCW 50.20.015, benefits paid with respect to a calendar quarter, which exceed the total amount of wages earned in the state of Washington in the higher of two corresponding calendar quarters included within the individual's determination period, as defined in **RCW 50.20.015, shall not be charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution-paying base year employer, not otherwise eligible for relief of charges for benefits under this

section, may receive such relief if the benefit charges result from payment to an individual who:

- (i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;
- (ii) Was discharged for misconduct connected with his or her work not a result of inability to meet the minimum job requirements;
- (iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster; or
- (iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted. [2004 c 110 § 3; 2003 2nd sp.s. c 4 § 20. Prior: 2002 c 149 § 6; 2002 c 8 § 4; 2000 c 2 § 3; 1995 c 57 § 3; 1993 c 483 § 19; 1991 c 129 § 1; 1988 c 27 § 1; prior: 1987 c 213 § 3; 1987 c 2 § 2; prior: 1985 c 299 § 1; 1985 c 270 § 2; 1985 c 42 § 1; 1984 c 205 § 7; 1975 1st ex.s. c 228 § 6; 1970 ex.s. c 2 § 11.]

Reviser's note: *(1) RCW 50.20.050 was amended twice during the 2009 legislative session, changing the subsection numbering.

***(2) RCW 50.20.015 was repealed by 2003 2nd sp.s. c 4 § 35.

Additional notes found at www.leg.wa.gov

50.29.021 Experience rating accounts—Benefits not charged—Claims with an effective date on or after January 4, 2004. (1) This section applies to benefits charged to the experience rating accounts of employers for claims that have an effective date on or after January 4, 2004.

(2)(a) An experience rating account shall be established and maintained for each employer, except employers as described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers as described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, based on existing records of the employment security department.

(b) Benefits paid to an eligible individual shall be charged to the experience rating accounts of each of such individual's employers during the individual's 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 as otherwise provided in this section.

(c) When the eligible individual's separating employer is a covered contribution paying base year employer, benefits paid to the eligible individual shall be charged to the experi-

ence rating account of only the individual's separating employer if the individual qualifies for benefits under:

(i) RCW 50.20.050 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after having worked and earned wages in the bona fide work; or

(ii) RCW 50.20.050 (1)(b) (v) through (x) or (2)(b) (v) through (x).

(3) The legislature finds that certain benefit payments, in whole or in part, should not be charged to the experience rating accounts of employers except those employers described in RCW 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make payments in lieu of contributions, taxable local government employers described in RCW 50.44.035, and those employers who are required to make payments in lieu of contributions, as follows:

(a) Benefits paid to any individual later determined to be ineligible shall not be charged to the experience rating account of any contribution paying employer, except as provided in subsection (5) of this section.

(b) 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 only if:

(i) The individual files under RCW 50.06.020(1) after receiving crime victims' compensation for a disability resulting from a nonwork-related occurrence; or

(ii) The individual files under RCW 50.06.020(2).

(c) Benefits paid which represent the state's share of benefits payable as extended benefits defined under RCW 50.22.010(6) shall not be charged to the experience rating account of any contribution paying employer.

(d) In the case of individuals who requalify for benefits under RCW 50.20.050 or 50.20.060, benefits based on wage credits earned prior to the disqualifying separation shall not be charged to the experience rating account of the contribution paying employer from whom that separation took place.

(e) Benefits paid to an individual who qualifies for benefits under RCW 50.20.050 (1)(b) (iv) or (xi) or (2)(b) (iv) or (xi), as applicable, shall not be charged to the experience rating account of any contribution paying employer.

(f) With respect to claims with an effective date on or after the first Sunday following April 22, 2005, benefits paid that exceed the benefits that would have been paid if the weekly benefit amount for the claim had been determined as one percent of the total wages paid in the individual's base year shall not be charged to the experience rating account of any contribution paying employer. This subsection (3)(f) does not apply to the calculation of contribution rates under RCW 50.29.025 for rate year 2010 and thereafter.

(g) The forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 and the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be charged to the experience rating account of any contribution paying employer.

(h) With respect to claims where the minimum amount payable weekly is increased to one hundred fifty-five dollars pursuant to RCW 50.20.1201(3), benefits paid that exceed the benefits that would have been paid if the minimum amount payable weekly had been calculated pursuant to

RCW 50.20.120 shall not be charged to the experience rating account of any contribution paying employer.

(i) Upon approval of an individual's training benefits plan submitted in accordance with RCW 50.22.155(2), an individual is considered enrolled in training, and regular benefits beginning with the week of approval shall not be charged to the experience rating account of any contribution paying employer.

(j) Training benefits paid to an individual under RCW 50.22.155 shall not be charged to the experience rating account of any contribution paying employer.

(4)(a) A contribution paying base year employer, except employers as provided in subsection (6) of this section, not otherwise eligible for relief of charges for benefits under this section, may receive such relief if the benefit charges result from payment to an individual who:

(i) Last left the employ of such employer voluntarily for reasons not attributable to the employer;

(ii) Was discharged for misconduct or gross misconduct connected with his or her work not a result of inability to meet the minimum job requirements;

(iii) Is unemployed as a result of closure or severe curtailment of operation at the employer's plant, building, worksite, or other facility. This closure must be for reasons directly attributable to a catastrophic occurrence such as fire, flood, or other natural disaster;

(iv) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who at some time during the base year was concurrently employed and subsequently separated from at least one other base year employer. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) Continues to be employed on a regularly scheduled permanent part-time basis by a base year employer and who qualified for two consecutive unemployment claims where wages were attributable to at least one employer who employed the individual in both base years. Benefit charge relief ceases when the employment relationship between the employer requesting relief and the claimant is terminated. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(vi) Was hired to replace an employee who is a member of the military reserves or National Guard and was called to federal active military service by the president of the United States and is subsequently laid off when that employee is reemployed by their employer upon release from active duty within the time provided for reemployment in RCW 73.16.035; or

(vii) Worked for an employer for twenty weeks or less, and was laid off at the end of temporary employment when that employee temporarily replaced a permanent employee receiving family or medical leave benefits under Title 50A RCW, and the layoff is due to the return of that permanent employee. This subsection (4)(a)(vii) applies to claims with an effective date on or after January 1, 2020.

(b) The employer requesting relief of charges under this subsection must request relief in writing within thirty days following mailing to the last known address of the notification of the valid initial determination of such claim, stating

the date and reason for the separation or the circumstances of continued employment. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(5) When a benefit claim becomes invalid due to an amendment or adjustment of a report where the employer failed to report or inaccurately reported hours worked or remuneration paid, or both, all benefits paid will be charged to the experience rating account of the contribution paying employer or employers that originally filed the incomplete or inaccurate report or reports. An employer who reimburses the trust fund for benefits paid to workers and who fails to report or inaccurately reported hours worked or remuneration paid, or both, shall reimburse the trust fund for all benefits paid that are based on the originally filed incomplete or inaccurate report or reports.

(6) An employer's experience rating account may not be relieved of charges for a benefit payment and an employer who reimburses the trust fund for benefit payments may not be credited for a benefit payment if a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to the claim or claims without establishing good cause for the failure and the employer or employer's agent has a pattern of such failures. The commissioner has the authority to determine whether the employer has good cause under this subsection.

(a) For the purposes of this subsection, "adequately" means providing accurate information of sufficient quantity and quality that would allow a reasonable person to determine eligibility for benefits.

(b)(i) For the purposes of this subsection, "pattern" means a benefit payment was made because the employer or employer's agent failed to respond timely or adequately to a written request of the department for information relating to a claim or claims without establishing good cause for the failure, if the greater of the following calculations for an employer is met:

(A) At least three times in the previous two years; or

(B) Twenty percent of the total current claims against the employer.

(ii) If an employer's agent is utilized, a pattern is established based on each individual client employer that the employer's agent represents. [2019 c 13 § 65; 2017 3rd sp.s. c 5 § 83. Prior: 2013 c 244 § 1; 2013 c 189 § 3; 2011 c 4 § 14; 2010 c 25 § 1; prior: 2009 c 493 § 1; 2009 c 50 § 1; 2009 c 3 § 13; 2008 c 323 § 2; 2007 c 146 § 2; 2006 c 13 § 6; 2005 c 133 § 4; 2003 2nd sp.s. c 4 § 21.]

Conflict with federal requirements—2013 c 244: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 244 § 2.]

Effective date—2013 c 244: "This act takes effect January 1, 2014." [2013 c 244 § 4.]

Conflict with federal requirements—Effective date—2013 c 189: See notes following RCW 50.16.010.

Contingent effective date—2011 c 4 §§ 7-15: See note following RCW 50.20.099.

Contingent expiration date—2011 c 4 §§ 3 and 6: "Sections 3 and 6 of this act expire July 1, 2012, unless the United States department of labor determines by October 1, 2011, that this act does not meet the requirements of section 2003 of the federal American recovery and reinvestment act of 2009 for unemployment insurance modernization incentive funding." [2011 c 4 § 23.] The United States department of labor determined that this act meets the requirements of section 2003 of the federal American recovery and reinvestment act of 2009.

Notice—2011 c 4: "The employment security department must provide notice of the expiration date of sections 3 and 6 of this act and the effective date of sections 7 through 15 of this act to affected parties, the chief clerk of the house of representatives, the secretary of the senate, the office of the code reviser, and others as deemed appropriate by the department." [2011 c 4 § 25.] The employment security department provided notice to the office of the code reviser on July 11, 2011. See notes following RCW 50.29.021 and 50.20.099.

Effective date—2011 c 4 §§ 1-6 and 16-21: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Effective date—2010 c 25 § 1: "Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 12, 2010]." [2010 c 25 § 6.]

Conflict with federal requirements—2010 c 25: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2010 c 25 § 4.]

Conflict with federal requirements—2009 c 493: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2009 c 493 § 5.]

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

Findings—Intent—Conflict with federal requirements—Effective date—2005 c 133: See notes following RCW 50.20.120.

Additional notes found at www.leg.wa.gov

50.29.025 Contribution rates (as amended by 2011 c 3). (1) For contributions assessed for rate years 2005 through 2009, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.13
0.001250	0.002500	3	0.25
0.002500	0.003750	4	0.38
0.003750	0.005000	5	0.50
0.005000	0.006250	6	0.63
0.006250	0.007500	7	0.75
0.007500	0.008750	8	0.88
0.008750	0.010000	9	1.00
0.010000	0.011250	10	1.15
0.011250	0.012500	11	1.30
0.012500	0.013750	12	1.45
0.013750	0.015000	13	1.60
0.015000	0.016250	14	1.75
0.016250	0.017500	15	1.90
0.017500	0.018750	16	2.05
0.018750	0.020000	17	2.20
0.020000	0.021250	18	2.35
0.021250	0.022500	19	2.50
0.022500	0.023750	20	2.65
0.023750	0.025000	21	2.80
0.025000	0.026250	22	2.95
0.026250	0.027500	23	3.10
0.027500	0.028750	24	3.25
0.028750	0.030000	25	3.40
0.030000	0.031250	26	3.55
0.031250	0.032500	27	3.70
0.032500	0.033750	28	3.85
0.033750	0.035000	29	4.00
0.035000	0.036250	30	4.15
0.036250	0.037500	31	4.30
0.037500	0.040000	32	4.45
0.040000	0.042500	33	4.60
0.042500	0.045000	34	4.75
0.045000	0.047500	35	4.90
0.047500	0.050000	36	5.05
0.050000	0.052500	37	5.20
0.052500	0.055000	38	5.30
0.055000	0.057500	39	5.35
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year.

For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least twelve months but less than fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent, except that, for employers in rate class 1, the minimum shall be forty-five hundredths of one percent.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six percent through rate year 2007 and may not exceed five and seven-tenths percent for rate years 2008 and 2009:

- (I) Rate class 1 - 78 percent;
- (II) Rate class 2 - 82 percent;
- (III) Rate class 3 - 86 percent;
- (IV) Rate class 4 - 90 percent;
- (V) Rate class 5 - 94 percent;
- (VI) Rate class 6 - 98 percent;
- (VII) Rate class 7 - 102 percent;
- (VIII) Rate class 8 - 106 percent;
- (IX) Rate class 9 - 110 percent;
- (X) Rate class 10 - 114 percent;
- (XI) Rate class 11 - 118 percent; and
- (XII) Rate classes 12 through 40 - 120 percent.

(B) For contributions assessed beginning July 1, 2005, through December 31, 2007, for employers whose North American industry classification system code is "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," the graduated social cost factor rate is zero.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period. To calculate the flat social cost factor for rate years 2010 and 2011, the forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 shall not be considered for purposes of calculating the total unemployment benefits paid to claimants in the four consecutive calendar quarters immediately preceding the computation date.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) For rate years 2005, 2006, and 2007:

(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40; and

(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(ii) For contributions assessed for rate years 2008 and 2009:

(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and

(C) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio		History Factor (percent)
	At least	Less than	
(I)		.95	90
(II)	.95	1.05	100
(III)	1.05		115

(2) For contributions assessed in rate year 2010 and thereafter, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio	Rate Class	Rate (percent)
	1	0.00
0.000001	2	0.11
0.001250	3	0.22
0.002500	4	0.33
0.003750	5	0.43
0.005000	6	0.54
0.006250	7	0.65
0.007500	8	0.76
0.008750	9	0.88
0.010000	10	1.01
0.011250	11	1.14

Benefit Ratio	Rate Class	Rate (percent)
0.012500	12	1.28
0.013750	13	1.41
0.015000	14	1.54
0.016250	15	1.67
0.017500	16	1.80
0.018750	17	1.94
0.020000	18	2.07
0.021250	19	2.20
0.022500	20	2.38
0.023750	21	2.50
0.025000	22	2.63
0.026250	23	2.75
0.027500	24	2.88
0.028750	25	3.00
0.030000	26	3.13
0.031250	27	3.25
0.032500	28	3.38
0.033750	29	3.50
0.035000	30	3.63
0.036250	31	3.75
0.037500	32	4.00
0.040000	33	4.25
0.042500	34	4.50
0.045000	35	4.75
0.047500	36	5.00
0.050000	37	5.15
0.052500	38	5.25
0.055000	39	5.30
0.057500	40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (2)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent.

For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (2)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least ten months but less than eleven months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least eleven months but less than twelve months of unemployment benefits, the minimum shall be forty-five hundredths of one percent; or
(III) At least twelve months but less than thirteen months of unemployment benefits, the minimum shall be four-tenths of one percent; or

(IV) At least thirteen months but less than fifteen months of unemployment benefits, the minimum shall be thirty-five hundredths of one percent; or

(V) At least fifteen months but less than seventeen months of unemployment benefits, the minimum shall be twenty-five hundredths of one percent; or

(VI) At least seventeen months but less than eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent; or

(VII) At least eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent through rate year 2011 and shall be zero thereafter.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

~~((A))~~ (I) Rate class 1 - 78 percent;

~~((B))~~ (II) Rate class 2 - 82 percent;

~~((C))~~ (III) Rate class 3 - 86 percent;

~~((D))~~ (IV) Rate class 4 - 90 percent;

~~((E))~~ (V) Rate class 5 - 94 percent;

~~((F))~~ (VI) Rate class 6 - 98 percent;

~~((G))~~ (VII) Rate class 7 - 102 percent;

~~((H))~~ (VIII) Rate class 8 - 106 percent;

~~((I))~~ (IX) Rate class 9 - 110 percent;

~~((J))~~ (X) Rate class 10 - 114 percent;

~~((K))~~ (XI) Rate class 11 - 118 percent; and

~~((L))~~ (XII) Rate classes 12 through 40 - 120 percent.

(B) For rate year 2011, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

(I) Rate class 1 - 40 percent;

(II) Rate class 2 - 44 percent;

(III) Rate class 3 - 48 percent;

(IV) Rate class 4 - 52 percent;

(V) Rate class 5 - 56 percent;

(VI) Rate class 6 - 60 percent;

(VII) Rate class 7 - 64 percent;

(VIII) Rate class 8 - 68 percent;

(IX) Rate class 9 - 72 percent;

(X) Rate class 10 - 76 percent;

(XI) Rate class 11 - 80 percent;

(XII) Rate class 12 - 84 percent;

(XIII) Rate class 13 - 88 percent;

(XIV) Rate class 14 - 92 percent;

(XV) Rate class 15 - 96 percent;

(XVI) Rate class 16 - 100 percent;

(XVII) Rate class 17 - 104 percent;

(XVIII) Rate class 18 - 108 percent;

(XIX) Rate class 19 - 112 percent;

(XX) Rate class 20 - 116 percent; and

(XXI) Rate classes 21 through 40 - 120 percent.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) For rate years through 2010:

(A) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(B) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)(A) of this subsection.

(ii) For rate years 2011 and thereafter:

(A)(I) For an employer who does not enter into an approved agency-deferred payment contract as described in (c)(ii)(A)(II) or (III) of this subsection, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment plus an additional one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional two percent;

(II) For an employer who enters an approved agency-deferred payment contract by September 30th of the previous rate year, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment;

(III) For an employer who enters an approved agency-deferred payment contract after September 30th of the previous rate year, but within thirty days of the date the department sent its first tax rate notice, the array calculation factor rate shall be the rate it would have been had the employer not been delinquent in payment plus an additional one-half of one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional one and one-half percent;

(IV) For an employer who enters an approved agency-deferred payment contract as described in (c)(ii)(A)(II) or (III) of this subsection, but who fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the array calculation factor rate shall immediately revert to the applicable array calculation factor rate under (c)(ii)(A)(I) of this subsection; and

(B) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 for the relevant year under (b)(ii)(A) or (B) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(ii) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 for the relevant year under (b)(ii)(A) or (B) of this subsection; and

(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio	History Factor (percent)
	At least	Less than
(A)	.95	90
(B)	.95	100
(C)	1.05	115

(3) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the North American industry classification system code. [2011 c 3 § 3; 2010 c 72 § 1. Prior: 2009 c 493 § 2; 2009 c 3 § 14; 2007 c 51 § 1; 2006 c 13 § 4; 2005 c 133 § 5; 2003 2nd sp.s. c 4 § 14;

2003 c 4 § 1; 2000 c 2 § 4; 1995 c 4 § 2; (1995 c 4 § 1 expired January 1, 1998); prior: 1993 c 483 § 21; 1993 c 226 § 14; 1993 c 226 § 13; 1990 c 245 § 7; 1989 c 380 § 79; 1987 c 171 § 3; 1985 ex.s. c 5 § 7; 1984 c 205 § 5.]

Conflict with federal requirements—Effective date—2011 c 3: See notes following RCW 50.22.010.

50.29.025 Contribution rates (as amended by 2011 c 4). (1) For contributions assessed for rate years 2005 through 2009, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio	Rate Class	Rate (percent)
At least		
Less than		
0.000001	1	0.00
0.000001	2	0.13
0.001250	3	0.25
0.002500	4	0.38
0.003750	5	0.50
0.005000	6	0.63
0.006250	7	0.75
0.007500	8	0.88
0.008750	9	1.00
0.010000	10	1.15
0.011250	11	1.30
0.012500	12	1.45
0.013750	13	1.60
0.015000	14	1.75
0.016250	15	1.90
0.017500	16	2.05
0.018750	17	2.20
0.020000	18	2.35
0.021250	19	2.50
0.022500	20	2.65
0.023750	21	2.80
0.025000	22	2.95
0.026250	23	3.10
0.027500	24	3.25
0.028750	25	3.40
0.030000	26	3.55
0.031250	27	3.70
0.032500	28	3.85
0.033750	29	4.00
0.035000	30	4.15
0.036250	31	4.30
0.037500	32	4.45
0.040000	33	4.60
0.042500	34	4.75
0.045000	35	4.90

Benefit Ratio	Rate Class	Rate (percent)
0.047500	36	5.05
0.050000	37	5.20
0.052500	38	5.30
0.055000	39	5.35
0.057500	40	5.40

(b) The graduated social cost factor rate shall be determined as follows:
 (i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (1)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year.

For the purposes of this subsection, the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer.

(C) The minimum flat social cost factor calculated under this subsection (1)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least twelve months but less than fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least fourteen months of unemployment benefits, the minimum shall be five-tenths of one percent, except that, for employers in rate class 1, the minimum shall be forty-five hundredths of one percent.

(ii)(A) Except as provided in (b)(ii)(B) of this subsection, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six and five-tenths percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed six percent through rate year 2007 and may not exceed five and seven-tenths percent for rate years 2008 and 2009:

- (I) Rate class 1 - 78 percent;
- (II) Rate class 2 - 82 percent;
- (III) Rate class 3 - 86 percent;
- (IV) Rate class 4 - 90 percent;
- (V) Rate class 5 - 94 percent;
- (VI) Rate class 6 - 98 percent;
- (VII) Rate class 7 - 102 percent;
- (VIII) Rate class 8 - 106 percent;
- (IX) Rate class 9 - 110 percent;
- (X) Rate class 10 - 114 percent;
- (XI) Rate class 11 - 118 percent; and
- (XII) Rate classes 12 through 40 - 120 percent.

(B) For contributions assessed beginning July 1, 2005, through December 31, 2007, for employers whose North American industry classification system code is "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," the graduated social cost factor rate is zero.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date

from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate year 2005, the commissioner shall calculate the total social cost using the array calculation factor contributions that would have been required to be paid by all employers in the calculation period if (a) of this subsection had been in effect for the relevant period. To calculate the flat social cost factor for rate years 2010 and 2011, the forty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1201 shall not be considered for purposes of calculating the total unemployment benefits paid to claimants in the four consecutive calendar quarters immediately preceding the computation date.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(ii) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) For rate years 2005, 2006, and 2007:

(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, plus fifteen percent of that amount; however, the rate may not be less than one percent or more than the array calculation factor rate in rate class 40; and

(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, plus fifteen percent of that amount, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection.

(ii) For contributions assessed for rate years 2008 and 2009:

(A) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(B) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 under (b)(ii) of this subsection; and

(C) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio	History Factor (percent)
	At least	Less than
(I)	.95	90
(II)	.95	1.05
(III)	1.05	115

(2) For contributions assessed in rate year 2010 and thereafter, the contribution rate for each employer subject to contributions under RCW 50.24.010 shall be the sum of the array calculation factor rate and the graduated social cost factor rate determined under this subsection, and the solvency surcharge determined under RCW 50.29.041, if any.

(a) The array calculation factor rate shall be determined as follows:

(i) An array shall be prepared, listing all qualified employers in ascending order of their benefit ratios. The array shall show for each qualified

employer: (A) Identification number; (B) benefit ratio; and (C) taxable payrolls for the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(ii) Each employer in the array shall be assigned to one of forty rate classes according to his or her benefit ratio as follows, and, except as provided in RCW 50.29.026, the array calculation factor rate for each employer in the array shall be the rate specified in the rate class to which the employer has been assigned:

Benefit Ratio		Rate Class	Rate (percent)
At least	Less than		
	0.000001	1	0.00
0.000001	0.001250	2	0.11
0.001250	0.002500	3	0.22
0.002500	0.003750	4	0.33
0.003750	0.005000	5	0.43
0.005000	0.006250	6	0.54
0.006250	0.007500	7	0.65
0.007500	0.008750	8	0.76
0.008750	0.010000	9	0.88
0.010000	0.011250	10	1.01
0.011250	0.012500	11	1.14
0.012500	0.013750	12	1.28
0.013750	0.015000	13	1.41
0.015000	0.016250	14	1.54
0.016250	0.017500	15	1.67
0.017500	0.018750	16	1.80
0.018750	0.020000	17	1.94
0.020000	0.021250	18	2.07
0.021250	0.022500	19	2.20
0.022500	0.023750	20	2.38
0.023750	0.025000	21	2.50
0.025000	0.026250	22	2.63
0.026250	0.027500	23	2.75
0.027500	0.028750	24	2.88
0.028750	0.030000	25	3.00
0.030000	0.031250	26	3.13
0.031250	0.032500	27	3.25
0.032500	0.033750	28	3.38
0.033750	0.035000	29	3.50
0.035000	0.036250	30	3.63
0.036250	0.037500	31	3.75
0.037500	0.040000	32	4.00
0.040000	0.042500	33	4.25
0.042500	0.045000	34	4.50
0.045000	0.047500	35	4.75
0.047500	0.050000	36	5.00
0.050000	0.052500	37	5.15
0.052500	0.055000	38	5.25
0.055000	0.057500	39	5.30
0.057500		40	5.40

(b) The graduated social cost factor rate shall be determined as follows:

(i)(A) Except as provided in (b)(i)(B) and (C) of this subsection, the commissioner shall calculate the flat social cost factor for a rate year by dividing the total social cost by the total taxable payroll. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The flat social cost factor shall be expressed as a percentage.

(B)(I) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide more than ten months of unemployment benefits, the commissioner shall calculate the flat social cost factor for the rate year immediately following the cut-off date by reducing the total social cost by the dollar amount that represents the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits above ten months and dividing the result by the total taxable payroll. However, the calculation under this subsection (2)(b)(i)(B) for a rate year may not result in a flat social cost factor that is more than four-tenths lower than the calculation under (b)(i)(A) of this subsection for that rate year. For rate year 2011 and thereafter, the calculation may not result in a flat social cost factor that is more than one and twenty-two one-hundredths percent.

(II) If, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide ten months of unemployment benefits or less, the flat social cost factor for the rate year immediately following the cut-off date may not increase by more than fifty percent over the previous rate year or may not exceed one and twenty-two one-hundredths percent, whichever is greater.

(III) For the purposes of this subsection (2)(b), the commissioner shall determine the number of months of unemployment benefits in the unemployment compensation fund using the benefit cost rate for the average of the three highest calendar benefit cost rates in the twenty consecutive completed calendar years immediately preceding the cut-off date or a period of consecutive calendar years immediately preceding the cut-off date that includes three recessions, if longer. The twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be considered in calculating the benefit cost rate when determining the number of months of unemployment benefits in the unemployment compensation fund.

(C) The minimum flat social cost factor calculated under this subsection (2)(b) shall be six-tenths of one percent, except that if the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide:

(I) At least ten months but less than eleven months of unemployment benefits, the minimum shall be five-tenths of one percent; or

(II) At least eleven months but less than twelve months of unemployment benefits, the minimum shall be forty-five hundredths of one percent; or

(III) At least twelve months but less than thirteen months of unemployment benefits, the minimum shall be four-tenths of one percent; or

(IV) At least thirteen months but less than fifteen months of unemployment benefits, the minimum shall be thirty-five hundredths of one percent; or

(V) At least fifteen months but less than seventeen months of unemployment benefits, the minimum shall be twenty-five hundredths of one percent; or

(VI) At least seventeen months but less than eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent; or

(VII) At least eighteen months of unemployment benefits, the minimum shall be fifteen hundredths of one percent through rate year 2011 and shall be zero thereafter.

(ii)(A) For rate years through 2010, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

~~((A))~~ (I) Rate class 1 - 78 percent;

~~((B))~~ (II) Rate class 2 - 82 percent;

~~((C))~~ (III) Rate class 3 - 86 percent;

~~((D))~~ (IV) Rate class 4 - 90 percent;

~~((E))~~ (V) Rate class 5 - 94 percent;

~~((F))~~ (VI) Rate class 6 - 98 percent;

~~((G))~~ (VII) Rate class 7 - 102 percent;

~~((H))~~ (VIII) Rate class 8 - 106 percent;

~~((I))~~ (IX) Rate class 9 - 110 percent;

~~((J))~~ (X) Rate class 10 - 114 percent;

~~((K))~~ (XI) Rate class 11 - 118 percent; and

~~((L))~~ (XII) Rate classes 12 through 40 - 120 percent.

(B) For rate years 2011 and thereafter, the graduated social cost factor rate for each employer in the array is the flat social cost factor multiplied by the percentage specified as follows for the rate class to which the employer has been assigned in (a)(ii) of this subsection, except that the sum of an

employer's array calculation factor rate and the graduated social cost factor rate may not exceed six percent or, for employers whose North American industry classification system code is within "111," "112," "1141," "115," "3114," "3117," "42448," or "49312," may not exceed five and four-tenths percent:

- (I) Rate class 1 - 40 percent;
- (II) Rate class 2 - 44 percent;
- (III) Rate class 3 - 48 percent;
- (IV) Rate class 4 - 52 percent;
- (V) Rate class 5 - 56 percent;
- (VI) Rate class 6 - 60 percent;
- (VII) Rate class 7 - 64 percent;
- (VIII) Rate class 8 - 68 percent;
- (IX) Rate class 9 - 72 percent;
- (X) Rate class 10 - 76 percent;
- (XI) Rate class 11 - 80 percent;
- (XII) Rate class 12 - 84 percent;
- (XIII) Rate class 13 - 88 percent;
- (XIV) Rate class 14 - 92 percent;
- (XV) Rate class 15 - 96 percent;
- (XVI) Rate class 16 - 100 percent;
- (XVII) Rate class 17 - 104 percent;
- (XVIII) Rate class 18 - 108 percent;
- (XIX) Rate class 19 - 112 percent;
- (XX) Rate class 20 - 116 percent; and
- (XXI) Rate classes 21 through 40 - 120 percent.

(iii) For the purposes of this section:

(A) "Total social cost" means the amount calculated by subtracting the array calculation factor contributions paid by all employers with respect to the four consecutive calendar quarters immediately preceding the computation date and paid to the employment security department by the cut-off date from the total unemployment benefits paid to claimants in the same four consecutive calendar quarters. To calculate the flat social cost factor for rate years 2012 and 2013, the twenty-five dollar increase paid as part of an individual's weekly benefit amount as provided in RCW 50.20.1202 shall not be considered for purposes of calculating the total unemployment benefits paid to claimants in the four consecutive calendar quarters immediately preceding the computation date.

(B) "Total taxable payroll" means the total amount of wages subject to tax, as determined under RCW 50.24.010, for all employers in the four consecutive calendar quarters immediately preceding the computation date and reported to the employment security department by the cut-off date.

(c) For employers who do not meet the definition of "qualified employer" by reason of failure to pay contributions when due:

(i) For rate years through 2010:

(A) The array calculation factor rate shall be two-tenths higher than that in rate class 40, except employers who have an approved agency-deferred payment contract by September 30th of the previous rate year. If any employer with an approved agency-deferred payment contract fails to make any one of the succeeding deferred payments or fails to submit any succeeding tax report and payment in a timely manner, the employer's tax rate shall immediately revert to an array calculation factor rate two-tenths higher than that in rate class 40; and

(B) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)(A) of this subsection.

(ii) For rate years 2011 and thereafter:

(A)(I) For an employer who does not enter into an approved agency-deferred payment contract as described in (c)(ii)(A)(II) or (III) of this subsection, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment plus an additional one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional two percent;

(II) For an employer who enters an approved agency-deferred payment contract by September 30th of the previous rate year, the array calculation factor rate shall be the rate it would have been if the employer had not been delinquent in payment;

(III) For an employer who enters an approved agency-deferred payment contract after September 30th of the previous rate year, but within thirty days of the date the department sent its first tax rate notice, the array calculation factor rate shall be the rate it would have been had the employer not been delinquent in payment plus an additional one-half of one percent or, if the employer is delinquent in payment for a second or more consecutive year, an additional one and one-half percent;

(IV) For an employer who enters an approved agency-deferred payment contract as described in (c)(ii)(A)(II) or (III) of this subsection, but who fails to make any one of the succeeding deferred payments or fails to submit

any succeeding tax report and payment in a timely manner, the array calculation factor rate shall immediately revert to the applicable array calculation factor rate under (c)(ii)(A)(I) of this subsection; and

(B) The social cost factor rate shall be the social cost factor rate assigned to rate class 40 under (b)(ii)(B) of this subsection.

(d) For all other employers not qualified to be in the array:

(i) The array calculation factor rate shall be a rate equal to the average industry array calculation factor rate as determined by the commissioner, multiplied by the history factor, but not less than one percent or more than the array calculation factor rate in rate class 40;

(ii) The social cost factor rate shall be a rate equal to the average industry social cost factor rate as determined by the commissioner, multiplied by the history factor, but not more than the social cost factor rate assigned to rate class 40 for the relevant year under (b)(ii)(A) or (B) of this subsection; and

(iii) The history factor shall be based on the total amounts of benefits charged and contributions paid in the three fiscal years ending prior to the computation date by employers not qualified to be in the array, other than employers in (c) of this subsection, who were first subject to contributions in the calendar year ending three years prior to the computation date. The commissioner shall calculate the history ratio by dividing the total amount of benefits charged by the total amount of contributions paid in this three-year period by these employers. The division shall be carried to the second decimal place with the remaining fraction disregarded unless it amounts to five one-hundredths or more, in which case the second decimal place shall be rounded to the next higher digit. The commissioner shall determine the history factor according to the history ratio as follows:

	History Ratio		History Factor (percent)
	At least	Less than	
(A)		.95	90
(B)	.95	1.05	100
(C)	1.05		115

(3) Assignment of employers by the commissioner to industrial classification, for purposes of this section, shall be in accordance with established classification practices found in the North American industry classification system code. [2011 c 4 § 16; 2010 c 72 § 1. Prior: 2009 c 493 § 2; 2009 c 3 § 14; 2007 c 51 § 1; 2006 c 13 § 4; 2005 c 133 § 5; 2003 2nd sp.s. c 4 § 14; 2003 c 4 § 1; 2000 c 2 § 4; 1995 c 4 § 2; (1995 c 4 § 1 expired January 1, 1998); prior: 1993 c 483 § 21; 1993 c 226 § 14; 1993 c 226 § 13; 1990 c 245 § 7; 1989 c 380 § 79; 1987 c 171 § 3; 1985 ex.s. c 5 § 7; 1984 c 205 § 5.]

Reviser's note: RCW 50.29.025 was amended twice during the 2011 legislative session, each without reference to the other. For rule of construction concerning sections amended more than once during the same legislative session, see RCW 1.12.025.

Effective date—2011 c 4 §§ 1-6 and 16-21: See note following RCW 50.20.1202.

Conflict with federal requirements—2011 c 4: See note following RCW 50.20.1202.

Conflict with federal requirements—2010 c 72: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2010 c 72 § 3.]

Conflict with federal requirements—2009 c 493: See note following RCW 50.29.021.

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

Findings—Intent—Conflict with federal requirements—Effective date—2005 c 133: See notes following RCW 50.20.120.

Additional notes found at www.leg.wa.gov

50.29.026 Modification of contribution rate. (1) Beginning with contributions assessed for rate year 1996, a

qualified employer's contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, determined under RCW 50.29.025 may be modified as follows:

(a) Subject to the limitations of this subsection, an employer may make a voluntary contribution of an amount equal to part or all of the benefits charged to the employer's account during the two years most recently ended on June 30th that were used for the purpose of computing the employer's contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005. On receiving timely payment of a voluntary contribution, plus a surcharge of ten percent of the amount of the voluntary contribution, the commissioner shall cancel the benefits equal to the amount of the voluntary contribution, excluding the surcharge, and compute a new benefit ratio for the employer. The employer shall then be assigned the contribution rate applicable for rate years beginning before January 1, 2005, or array calculation factor rate applicable for rate years beginning on or after January 1, 2005, applicable to the rate class within which the recomputed benefit ratio is included. The minimum amount of a voluntary contribution, excluding the surcharge, must be an amount that will result in a recomputed benefit ratio that is in a rate class at least four rate classes lower than the rate class that included the employer's original benefit ratio.

(b) Payment of a voluntary contribution is considered timely if received by the department during the period beginning on the date of mailing to the employer the notice of contribution rate applicable for rate years beginning before January 1, 2005, or notice of array calculation factor rate applicable for rate years beginning on or after January 1, 2005, required under this title for the rate year for which the employer is seeking a modification of his or her rate and ending on February 15th of that rate year or, for voluntary contributions for rate year 2000, ending on March 31, 2000.

(c) A benefit ratio may not be recomputed nor a rate be reduced under this section as a result of a voluntary contribution received after the payment period prescribed in (b) of this subsection.

(2) This section does not apply to any employer who has not had an increase of at least twelve rate classes from the previous tax rate year. [2003 2nd sp.s. c 4 § 17; 2000 c 2 § 5; 1995 c 322 § 1.]

Additional notes found at www.leg.wa.gov

50.29.027 Benefit ratio computed for 1985 and thereafter. For the rate year 1985 and each rate year thereafter, a benefit ratio shall be computed for each qualified employer by dividing the total amount of benefits charged to the account of the employer during the forty-eight consecutive months immediately preceding the computation date by the taxable payrolls of the employer for the same forty-eight month period as reported to the department by the cut-off dates. The division shall be carried to the sixth decimal place with the remaining fraction, if any, disregarded. [1984 c 205 § 4.]

Additional notes found at www.leg.wa.gov

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50.29.030 "Wages" defined for purpose of prorating benefit charges. For the purpose of prorating benefit charges "wages" shall mean "wages" as defined for purpose of payment of benefits in RCW 50.04.320. [1970 ex.s. c 2 § 12.]

Government or retirement pension plan payments as remuneration or wages—Recovery of excess over benefits allowable, limitations: RCW 50.04.323.

Additional notes found at www.leg.wa.gov

50.29.041 Contribution rate—Solvency surcharge. Beginning with contributions assessed for rate year 2005, the contribution rate of each employer subject to contributions under RCW 50.24.010 shall include a solvency surcharge determined as follows:

(1) This section shall apply to employers' contributions for a rate year immediately following a cut-off date only if, on the cut-off date, the balance in the unemployment compensation fund is determined by the commissioner to be an amount that will provide fewer than seven months of unemployment benefits.

(2) The solvency surcharge shall be the lowest rate necessary, as determined by the commissioner, but not more than two-tenths of one percent, to provide revenue during the applicable rate year that will fund unemployment benefits for the number of months that is the difference between nine months and the number of months for which the balance in the unemployment compensation fund on the cut-off date will provide benefits.

(3) The basis for determining the number of months of unemployment benefits shall be the same basis used in *RCW 50.29.025(2)(b)(i)(B). [2006 c 13 § 5; 2003 2nd sp.s. c 4 § 16.]

*Reviser's note: RCW 50.29.025 was amended by 2011 c 4 § 16, 2011 c 3 § 3, 2009 c 3 § 14, and 2009 c 493 § 2, changing the subsection numbering.

Additional notes found at www.leg.wa.gov

50.29.062 Contribution rates for predecessor and successor employers. (1) If the department finds that a significant purpose of the transfer of the business is to obtain a reduced array calculation factor rate, contribution rates shall be computed and penalties and other sanctions shall apply as specified in RCW 50.29.063.

(2) If subsection (1) of this section and RCW 50.29.063 do not apply and if the department finds that an employer is a successor, or partial successor, to a predecessor business, predecessor and successor employer contribution rates shall be computed in the following manner:

(a) If the successor is an employer, as defined in RCW 50.04.080, at the time of the transfer of a business, the following applies:

(i) The successor's contribution rate shall remain unchanged for the remainder of the rate year in which the transfer occurs.

(ii) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on a combination of the following:

(A) The successor's experience with payrolls and benefits; and

(B) Any experience assigned to the predecessor involved in the transfer. If only a portion of the business was trans-

ferred, then the experience attributable to the acquired portion is assigned to the successor.

(b) If the successor is not an employer at the time of the transfer, the following applies:

(i) For transfers before January 1, 2005:

(A) Except as provided in (b)(i)(B) of this subsection (2), the successor shall pay contributions at the lowest rate determined under either of the following:

(I) The contribution rate of the rate class assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience relating to the assignment of that rate class attributable to the predecessor is transferred to the successor. Beginning with the January 1st following the transfer, the successor's contribution rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer; or

(II) The contribution rate equal to the average industry rate as determined by the commissioner, but not less than one percent, and continuing until the successor qualifies for a different rate in its own right. Assignment of employers by the commissioner to industrial classification, for purposes of this subsection, must be in accordance with established classification practices found in the North American industry classification system issued by the federal office of management and budget to the fourth digit provided in the North American industry classification system.

(B) If the successor simultaneously acquires the business or a portion of the business of two or more employers in different rate classes, its rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the rate of the highest rate class applicable at the time of the acquisition to any predecessor employer who is a party to the acquisition, but not less than one percent.

(ii) For transfers on or after January 1, 2005:

(A) Except as provided in (b)(ii)(B) and (C) of this subsection (2), the successor shall pay contributions:

(I) At the contribution rate assigned to the predecessor employer at the time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor.

(II) Beginning January 1st following the transfer, the successor's contribution rate for each rate year shall be based on an array calculation factor rate that is a combination of the following: The successor's experience with payrolls and benefits; and any experience assigned to the predecessor involved in the transfer. If only a portion of the business was transferred, then the experience attributable to the acquired portion is assigned to the successor if qualified under RCW 50.29.010 by including the transferred experience. If not qualified under RCW 50.29.010, the contribution rate shall equal the sum of the rates determined by the commissioner under RCW 50.29.025 (1)(d)(ii) or (2)(d) and 50.29.041, if applicable, and continuing until the successor qualifies for a different rate, including the transferred experience.

(B) If there is a substantial continuity of ownership, control, or management by the successor of the business of the predecessor, the successor shall pay contributions at the contribution rate determined for the predecessor employer at the

time of the transfer for the remainder of that rate year. Any experience attributable to the predecessor relating to the assignment of the predecessor's rate class is transferred to the successor. Beginning January 1st following the transfer, the successor's array calculation factor rate shall be based on a combination of the transferred experience of the acquired business and the successor's experience after the transfer.

(C) If the successor simultaneously acquires the business or a portion of the business of two or more employers with different contribution rates, the successor's rate, from the date the transfer occurred until the end of that rate year and until it qualifies in its own right for a new rate, shall be the sum of the rates determined by the commissioner under RCW 50.29.025 (1) (a) and (b) or (2) (a) and (b), and 50.29.041, applicable at the time of the acquisition, to the predecessor employer who, among the parties to the acquisition, had the largest total payroll in the completed calendar quarter immediately preceding the date of transfer, but not less than the sum of the rates determined by the commissioner under RCW 50.29.025 (1)(d)(ii) or (2)(d) and 50.29.041, if applicable.

(c) With respect to predecessor employers:

(i) 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.

(ii) In all cases, beginning January 1st following the transfer, the predecessor's contribution rate or the predecessor's array calculation factor for each rate year shall be based on its experience with payrolls and benefits as of the regular computation date for that rate year excluding the experience of the transferred business or transferred portion of business as that experience has transferred to the successor: PROVIDED, That if all of the predecessor's business is transferred to a successor or successors, the predecessor shall not be a qualified employer until it satisfies the requirements of a "qualified employer" as set forth in RCW 50.29.010.

(3) A predecessor-successor relationship does not exist for purposes of subsection (2) of this section when a significant purpose of the transfer of a business or its operating assets is for the employer to move or expand an existing business, or for an employer to establish a substantially similar business under common ownership, management, and control. However, if an employer transfers its business to another employer, and both employers are at the time of transfer under substantially common ownership, management, or control, then the unemployment experience attributable to the transferred business shall also be transferred to, and combined with the unemployment experience attributable to, the employer to whom such business is so transferred as specified in subsection (2)(a) of this section.

(4) For purposes of this section, "transfer of a business" means the same as RCW 50.29.063(4)(c). [2012 1st sp.s. c 2 § 1; 2010 c 25 § 2; 2009 c 225 § 1; 2006 c 47 § 2; 2003 2nd sp.s. c 4 § 18; 1996 c 238 § 1; 1995 c 56 § 1; 1989 c 380 § 81; 1984 c 205 § 6.]

Conflict with federal requirements—2012 1st sp.s. c 2: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the grant-

ing of federal unemployment tax credits to employers in this state." [2012 1st sp.s. c 2 § 2.]

Conflict with federal requirements—2010 c 25: See note following RCW 50.29.021.

Conflict with federal requirements—2009 c 225: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2009 c 225 § 3.]

Additional notes found at www.leg.wa.gov

50.29.063 Predecessor or successor employers—Transfer to obtain reduced array calculation factor rate—Evasion of successor provisions—Penalties. (1) If it is found that a significant purpose of the transfer of a business was to obtain a reduced array calculation factor rate, then the following applies:

(a) If the successor was an employer at the time of the transfer, then the experience rating accounts of the employers involved shall be combined into a single account and the employers assigned the higher of the predecessor or successor array calculation factor rate to take effect as of the date of the transfer.

(b) If the successor was not an employer at the time of the transfer, then the experience rating account of the acquired business must not be transferred and, instead, the sum of the rate determined by the commissioner under RCW 50.29.025 (1)(d)(ii) or (2)(d) and 50.29.041, if applicable, shall be assigned.

(2) If any part of a delinquency for which an assessment is made under this title is due to an intent to knowingly evade the successorship provisions of RCW 50.29.062 and this section, then with respect to the employer, and to any business found to be knowingly promoting the evasion of such provisions:

(a) The commissioner shall, for the rate year in which the commissioner makes the determination under this subsection and for each of the three consecutive rate years following that rate year, assign to the employer or business the total rate, which is the sum of the recalculated array calculation factor rate and a civil penalty assessment rate, calculated as follows:

(i) Recalculate the array calculation factor rate as the array calculation factor rate that should have applied to the employer or business under RCW 50.29.025 and 50.29.062; and

(ii) Calculate a civil penalty assessment rate in an amount that, when added to the array calculation factor rate determined under (a)(i) of this subsection for the applicable rate year, results in a total rate equal to the maximum array calculation factor rate under RCW 50.29.025 plus two percent, which total rate is not limited by any maximum array calculation factor rate established in RCW 50.29.025 (1)(b)(ii) or (2)(b)(ii);

(b) The employer or business may be prosecuted under the penalties prescribed in RCW 50.36.020; and

(c) The employer or business must pay for the employment security department's reasonable expenses of auditing

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the employer's or business's books and collecting the civil penalty assessment.

(3) If the person knowingly evading the successorship provisions, or knowingly attempting to evade these provisions, or knowingly promoting the evasion of these provisions, is not an employer, the person is subject to a civil penalty assessment of five thousand dollars per occurrence. In addition, the person is subject to the penalties prescribed in RCW 50.36.020 as if the person were an employer. The person must also pay for the employment security department's reasonable expenses of auditing his or her books and collecting the civil penalty assessment.

(4) For purposes of this section:

(a) "Knowingly" means having actual knowledge of or acting with deliberate ignorance or reckless disregard for the prohibition involved and includes, but is not limited to, intent to evade, misrepresentation, or willful nondisclosure.

(b) "Person" means and includes an individual, a trust, estate, partnership, association, company, or corporation.

(c) "Transfer of a business" includes the transfer or acquisition of substantially all or a portion of the operating assets, which may include the employer's workforce.

(5) Any decision to assess a penalty under this section shall be made by the chief administrative officer of the tax branch or his or her designee.

(6) Nothing in this section shall be construed to deny an employer the right to appeal the assessment of a penalty in the manner provided in RCW 50.32.030.

(7) The commissioner shall engage in prevention, detection, and collection activities related to evasion of the successorship provisions of RCW 50.29.062 and this section, and establish procedures to enforce this section. [2010 c 25 § 3; 2009 c 225 § 2; 2007 c 327 § 3; 2006 c 47 § 1.]

Conflict with federal requirements—2010 c 25: See note following RCW 50.29.021.

Conflict with federal requirements—2009 c 225: See note following RCW 50.29.062.

Additional notes found at www.leg.wa.gov

50.29.064 Rules to implement 2006 c 47. The commissioner of the employment security department may adopt rules necessary to implement chapter 47, Laws of 2006. [2006 c 47 § 4.]

Additional notes found at www.leg.wa.gov

50.29.065 Notice of benefits paid and charged to employer's account. Within thirty days after the end of every calendar quarter, the commissioner shall notify each employer of the benefits received during that quarter by each claimant for whom he or she is the base year employer and the amount of those benefits charged to his or her experience rating account. [1984 c 205 § 10.]

Additional notes found at www.leg.wa.gov

50.29.070 Notice of employer benefit charges and rate of contribution—Review and appeal. (1) Within a reasonable time after the computation date each employer shall be notified of the employer's rate of contribution as determined for the succeeding rate year and factors used in the calculation. Beginning with rate year 2005, the notice must include the amount of the contribution rate that is attrib-

utable to each component of the rate under *RCW 50.29.025(2).

(2) Any employer dissatisfied with the benefit charges made to the employer's account for the twelve-month period immediately preceding the computation date or with his or her 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 thirty 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. [2003 2nd sp.s. c 4 § 19; 1990 c 245 § 8; 1983 1st ex.s. c 23 § 19; 1973 1st ex.s. c 158 § 14; 1970 ex.s. c 2 § 16.]

*Reviser's note: RCW 50.29.025 was amended by 2011 c 4 § 16, 2011 c 3 § 3, 2009 c 3 § 14, and 2009 c 493 § 2, changing the subsection numbering.

Appeal on denial of refund: RCW 50.32.030, 50.32.050.

Appeal to the courts: RCW 50.32.120.

Review by commissioner: RCW 50.32.070.

Additional notes found at www.leg.wa.gov

50.29.080 Redetermination and correction of employer's contribution rate. The commissioner may redetermine any contribution rate if, within three years of the rate computation date he or she finds that the rate as originally computed was erroneous.

In the event that the redetermined rate is lower than that originally computed the difference between the amount paid and the amount which should have been paid on the employer's taxable payroll for the rate year involved shall be established as a credit against his or her tax liability; however, if the redetermined rate is higher than that originally computed the difference between the amount paid and the amount which should have been paid on the employer's taxable payroll shall be assessed against the employer as contributions owing for the rate year involved.

The redetermination of an employer's contribution rate shall not affect the contribution rates which have been established for any other employer nor shall such redetermination affect any other computation made pursuant to this title.

The employer shall have the same rights to request review and redetermination as he or she had from his or her original rate determination. [2010 c 8 § 13035; 1970 ex.s. c 2 § 17.]

Additional notes found at www.leg.wa.gov

50.29.090 Contribution rates for client employers. For purposes of this title, each client employer of a professional employer organization is assigned its individual contribution rate based on its own experience. [2007 c 146 § 10.]

Additional notes found at www.leg.wa.gov

Chapter 50.32 RCW REVIEW, HEARINGS, AND APPEALS

Sections

50.32.010 Appeal tribunals.

[Title 50 RCW—page 76]

50.32.020	Filing of benefit appeals.
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50.32.040	Benefit appeal procedure.
50.32.050	Contributions appeal procedure.
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50.32.097	Applicability of finding, determination, etc., to other action.
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50.32.150	Jurisdiction of court.
50.32.160	Attorneys' fees.
50.32.170	Decision final by agreement.
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50.32.190	Costs, charges, and expenses.

50.32.010 Appeal tribunals. The commissioner shall establish one or more impartial appeal tribunals, each of which shall consist of an administrative law judge appointed under chapter 34.12 RCW who shall decide the issues submitted to the tribunal. No administrative law judge may hear or decide any disputed claim in any case in which he or she is an interested party. Wherever the term "appeal tribunal" or "the appeal tribunal" is used in this title the same refers to an appeal tribunal established under the provisions of this section. Notice of any appeal or petition for hearing taken to an appeal tribunal in any proceeding under this title may be filed with such agency as the commissioner may by regulation prescribe. [2010 c 8 § 13036; 1981 c 67 § 30; 1945 c 35 § 117; Rem. Supp. 1945 § 9998-255. Prior: 1943 c 127 § 4; 1941 c 253 § 4.]

Additional notes found at www.leg.wa.gov

50.32.020 Filing of benefit appeals. The applicant or claimant, his or her most recent employing unit or any interested party which the commissioner by regulation prescribes, may file an appeal from any determination or redetermination with the appeal tribunal within thirty days after the date of notification or mailing, whichever is earlier, of such determination or redetermination to his or her last known address: PROVIDED, That in the event an appeal with respect to any determination is pending as of the date when a redetermination thereof is issued, such appeal, unless withdrawn, shall be treated as an appeal from such redetermination. Any appeal from a determination of denial of benefits which is effective for an indefinite period shall be deemed to be an appeal as to all weeks subsequent to the effective date of the denial for which benefits have already been denied. If no appeal is taken from any determination, or redetermination, within the time allowed by the provisions of this section for appeal therefrom, said determination, or redetermination, as the case may be, shall be conclusively deemed to be correct except as hereinbefore provided in respect to reconsideration by the commissioner of any determination. [1987 c 61 § 1; 1951 c 215 § 10; 1945 c 35 § 118; Rem. Supp. 1945 § 9998-256. Prior: 1943 c 127 § 4; 1941 c 253 § 4; 1939 c 214 § 4; 1937 c 162 § 6.]

50.32.025 Mailed appeal or petition. The appeal or petition from a determination, redetermination, order and notice of assessment, appeals decision, or commissioner's decision 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. [1975 1st ex.s. c 228 § 4; 1969 ex.s. c 200 § 1.]

Additional notes found at www.leg.wa.gov

50.32.030 Appeal from order and notice of assessment. When an order and notice of assessment has been served upon or mailed to a delinquent employer, as heretofore provided, such employer may within thirty days thereafter file a petition in writing with the appeal tribunal, stating that such assessment is unjust or incorrect and requesting a hearing thereon. Such petition shall set forth the reasons why the assessment is objected to and the amount of contributions, if any, which said employer admits to be due the employment security department. If no such petition be filed with the appeal tribunal within thirty days, the assessment shall be conclusively deemed to be just and correct: PROVIDED, That in such cases, and in cases where payment of contributions, interest, or penalties has been made pursuant to a jeopardy assessment, the commissioner may properly entertain a subsequent application for refund. The filing of a petition on a disputed assessment with the appeal tribunal shall stay the distraint and sale proceeding provided for in this title until a final decision thereon shall have been made, but the filing of such petition shall not affect the right of the commissioner to perfect a lien, as provided by this title, upon the property of the employer. The filing of a petition on a disputed assessment shall stay the accrual of interest and penalties on the disputed contributions until a final decision shall have been made thereon.

Within thirty days after notice of denial of refund or adjustment has been mailed or delivered (whichever is the earlier) to an employer, the employer may file a petition in writing with the appeal tribunal for a hearing thereon: PROVIDED, That this right shall not apply in those cases in which assessments have been appealed from and have become final. The petitioner shall set forth the reasons why such hearing should be granted and the amount which the petitioner believes should be adjusted or refunded. If no such petition be filed within said thirty days, the determination of the commissioner as stated in said notice shall be final. [1987 c 111 § 6; 1987 c 61 § 2; 1983 1st ex.s. c 23 § 20; 1959 c 266 § 7;

1949 c 214 § 23; 1945 c 35 § 119; Rem. Supp. 1949 § 9998-257.]

Reviser's note: This section was amended by 1987 c 61 § 2 and by 1987 c 111 § 6, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

50.32.040 Benefit appeal procedure. In any proceeding before an appeal tribunal involving a dispute of an individual's initial determination, all matters covered by such initial determination shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal.

In any proceeding before an appeal tribunal involving a dispute of an individual's claim for waiting period credit or claim for benefits, all matters and provisions of this title relating to the individual's right to receive such credit or benefits for the period in question, including but not limited to the question and nature of the claimant's availability for work within the meaning of RCW 50.20.010(1)(c) and 50.20.080, shall be deemed to be in issue irrespective of the particular ground or grounds set forth in the notice of appeal in single claimant cases. The claimant's availability for work shall be determined apart from all other matters.

In any proceeding before an appeal tribunal involving an individual's right to benefits, all parties shall be afforded an opportunity for hearing after not less than seven days' notice in accordance with RCW 34.05.434.

In any proceeding involving an appeal relating to benefit determinations or benefit claims, the appeal tribunal, after affording the parties reasonable opportunity for fair hearing, shall render its decision affirming, modifying, or setting aside the determination or decisions of the unemployment compensation division. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor, which shall be deemed to be the final decision on the initial determination or the claim for waiting period credit or the claim for benefits unless, within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner. [2003 2nd sp.s. c 4 § 32; 1989 c 175 § 117; 1987 c 61 § 3; 1981 c 35 § 10; 1973 c 73 § 8; 1945 c 35 § 120; Rem. Supp. 1945 § 9998-258. Prior: 1943 c 127 § 4; 1941 c 253 § 4; 1939 c 214 § 4; 1937 c 162 § 6.]

Additional notes found at www.leg.wa.gov

50.32.050 Contributions appeal procedure. In any proceeding before an appeal tribunal involving an appeal from a disputed order and notice of assessment (for contributions, interest, or penalties due) a disputed denial of refund or adjustment (of contributions, interest, or penalties paid) or a disputed experience rating credit, the appeal tribunal, after affording the parties a reasonable opportunity for hearing, shall affirm, modify or set aside the notice of assessment, denial of refund or experience rating credit. The parties shall be duly notified of such appeal tribunal's decision together with its reasons therefor which shall be deemed to be the final decision on the order and notice of assessment, denial of refund or experience rating credit, as the case may be, unless

within thirty days after the date of notification or mailing, whichever is the earlier, of such decision, further appeal is perfected pursuant to the provisions of this title relating to review by the commissioner. [1987 c 61 § 4; 1983 1st ex.s. c 23 § 21; 1949 c 214 § 24; 1945 c 35 § 121; Rem. Supp. 1949 § 9998-259.]

Review by commissioner: RCW 50.32.070.

Additional notes found at www.leg.wa.gov

50.32.060 Conduct of appeal hearings. The manner in which any dispute shall be presented to the appeal tribunal, and the conduct of hearings and appeals, shall be in accordance with regulations prescribed by the commissioner for determining the rights of the parties, whether or not such regulations conform to common law or statutory rules of evidence and other technical rules of procedure. A full and complete record shall be kept of all appeal tribunal proceedings. All testimony at any appeal tribunal hearing shall be recorded, but need not be transcribed unless further appeal is taken. [1945 c 35 § 122; Rem. Supp. 1945 § 9998-260.]

50.32.070 Petition for review by commissioner. Within thirty days from the date of notification or mailing, whichever is the earlier, of any decision of an appeal tribunal, the commissioner on his or her 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 thirty 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 or her review thereof by entering an order so providing on his or her 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 the commissioner's assumption of jurisdiction on his or her own motion for review shall be deemed to be jurisdictional. [1987 c 61 § 5; 1975 1st ex.s. c 228 § 5; 1947 c 215 § 31; 1945 c 35 § 123; Rem. Supp. 1947 § 9998-261.]

Additional notes found at www.leg.wa.gov

50.32.075 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. [1975 1st ex.s. c 228 § 16.]

Additional notes found at www.leg.wa.gov

50.32.080 Commissioner's review procedure. After having acquired jurisdiction for review, the commissioner shall review the proceedings in question. Prior to rendering his or her decision, the commissioner may order the taking of additional evidence by an appeal tribunal to be made a part of the record in the case. Upon the basis of evidence submitted to the appeal tribunal and such additional evidence as the commissioner may order to be taken, the commissioner shall

render his or her decision in writing affirming, modifying, or setting aside the decision of the appeal tribunal. Alternatively, the commissioner may order further proceedings to be held before the appeal tribunal, upon completion of which the appeal tribunal shall issue a decision in writing affirming, modifying, or setting aside its previous decision. The new decision may be appealed under RCW 50.32.070. The commissioner shall mail his or her decision to the interested parties at their last known addresses. [2010 c 8 § 13037; 1982 1st ex.s. c 18 § 8; 1945 c 35 § 124; Rem. Supp. 1945 § 9998-262.]

Additional notes found at www.leg.wa.gov

50.32.090 Finality of commissioner's decision. Any decision of the commissioner involving a review of an appeal tribunal decision, in the absence of a petition therefrom as provided in chapter 34.05 RCW, becomes final thirty days after 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. [1989 c 175 § 118; 1973 1st ex.s. c 158 § 15; 1945 c 35 § 125; Rem. Supp. 1945 § 9998-263.]

Procedure for judicial review: RCW 50.32.120.

Additional notes found at www.leg.wa.gov

50.32.095 Commissioner's decisions as precedents—Publication. The commissioner may designate certain commissioner's decisions as precedents. The commissioner's decisions designated as precedents shall be published and made available to the public by the department. [1982 1st ex.s. c 18 § 9.]

Additional notes found at www.leg.wa.gov

50.32.097 Applicability of finding, determination, etc., to other action. Any finding, determination, conclusion, declaration, or final order made by the commissioner, or his or her representative or delegate, or by an appeal tribunal, administrative law judge, reviewing officer, or other agent of the department for the purposes of Title 50 RCW, shall not be conclusive, nor binding, nor admissible as evidence in any separate action outside the scope of Title 50 RCW between an individual and the individual's present or prior employer before an arbitrator, court, or judge of this state or the United States, regardless of whether the prior action was between the same or related parties or involved the same facts or was reviewed pursuant to RCW 50.32.120. [1988 c 28 § 1.]

50.32.100 Costs. In all proceedings provided by this title prior to court review involving dispute of an individual's initial determination, or claim for waiting period credit, or for benefits, the fees of all witnesses attending such proceedings pursuant to subpoena shall be paid at the rate fixed by such regulation as the commissioner shall prescribe and such fees and all costs of such proceedings otherwise chargeable to such individual, except charges for services rendered by counsel or other agent representing such individual, shall be paid out of the unemployment compensation administration fund. In all other respects and in all other proceedings under this title the rule in civil cases as to costs and attorney fees shall apply: PROVIDED, That cost bills may be served and filed and costs shall be taxed in accordance with such regula-

tion as the commissioner shall prescribe. [1945 c 35 § 126; Rem. Supp. 1945 § 9998-264.]

Costs and attorneys' fees: Chapter 4.84 RCW.

50.32.110 Fees for administrative hearings. No individual shall be charged fees of any kind in any proceeding involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits, under this title by the commissioner or his or her representatives, or by an appeal tribunal, or any court, or any officer thereof. Any individual in any such proceeding before the commissioner or any appeal tribunal may be represented by counsel or other duly authorized agent who shall neither charge nor receive a fee for such services in excess of an amount found reasonable by the officer conducting such proceeding. [2010 c 8 § 13038; 1945 c 35 § 127; Rem. Supp. 1945 § 9998-265.]

50.32.120 Procedure for judicial review. 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 34.05.570. [1973 1st ex.s. c 158 § 16; 1971 c 81 § 119; 1945 c 35 § 128; Rem. Supp. 1945 § 9998-266. Prior: 1943 c 127 § 4; 1941 c 253 § 4; 1939 c 214 § 4; 1937 c 162 § 6.]

Appeals: Chapter 4.88 RCW.

Additional notes found at www.leg.wa.gov

50.32.130 Undertakings on seeking judicial review. No bond of any kind shall be required of any individual 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 commissioner's decision 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. [1973 1st ex.s. c 158 § 17; 1971 c 81 § 120; 1945 c 35 § 129; Rem. Supp. 1945 § 9998-267. Prior: 1943 c 127 § 4; 1941 c 253 § 4.]

Rules of court: Cf. Title 8 RAP, RAP 18.22.

Additional notes found at www.leg.wa.gov

50.32.140 Interstate petitions to Thurston county. RCW 34.05.514 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 filed with the superior court of Thurston county which shall have the original venue of such appeals. [1989 c 175 § 119; 1973 1st ex.s. c 158 § 18; 1945 c 35 § 130; Rem. Supp. 1945 § 9998-268.]

Additional notes found at www.leg.wa.gov

50.32.150 Jurisdiction of court. In all court proceedings under or pursuant to this title the decision of the commissioner shall be prima facie correct, and the burden of proof shall be upon the party attacking the same.

If the court shall determine that the commissioner has acted within his or her power and has correctly construed the law, the decision of the commissioner shall be confirmed; otherwise, it shall be reversed or modified. In case of a modification or reversal the superior court shall refer the same to the commissioner with an order directing him or her to proceed in accordance with the findings of the court.

Whenever any order and notice of assessment shall have become final in accordance with the provisions of this title, the court shall upon application of the commissioner enter a judgment in the amount provided for in said order and notice of assessment, and said judgment shall have and be given the same effect as if entered pursuant to civil action instituted in said court. [2010 c 8 § 13039; 1945 c 35 § 131; Rem. Supp. 1945 § 9998-269. Prior: 1941 c 253 § 4.]

Judgments

entry of: Chapter 4.64 RCW.

generally: Chapter 4.56 RCW.

50.32.160 Attorneys' fees. It shall be unlawful for any attorney engaged in any appeal to the courts on behalf of an individual involving the individual's application for initial determination, or claim for waiting period credit, or claim for benefits to charge or receive any fee therein in excess of a reasonable fee to be fixed by the superior court in respect to the services performed in connection with the appeal taken thereto and to be fixed by the supreme court or the court of appeals in the event of appellate review, and if the decision of the commissioner shall be reversed or modified, such fee and the costs shall be payable out of the unemployment compensation administration fund. In the allowance of fees the court shall give consideration to the provisions of this title in respect to fees pertaining to proceedings involving an individual's application for initial determination, claim for waiting period credit, or claim for benefits. In other respects the practice in civil cases shall apply. [1988 c 202 § 48; 1971 c 81 § 121; 1945 c 35 § 132; Rem. Supp. 1945 § 9998-270. Prior: 1941 c 253 § 4.]

Attorneys' fees: Chapter 4.84 RCW.

Costs: RCW 50.32.100.

Costs on appeal: Chapter 4.84 RCW.

Additional notes found at www.leg.wa.gov

50.32.170 Decision final by agreement. No appeal from the decision of an appeal tribunal, or of the commissioner, or of any court in any proceedings provided by this title may be taken subsequent to the filing with the appeal tribunal, commissioner, or court which rendered the decision, within the time allowed for appeal, of an agreement in writing approved by all interested parties to the proceedings, providing that no appeal will be taken from such decision. The provisions of this section shall be jurisdictional. [1945 c 35 § 133; Rem. Supp. 1945 § 9998-271.]

50.32.180 Remedies of title exclusive. The remedies provided in this title for determining the justness or correctness of assessments, refunds, adjustments, or claims shall be

exclusive and no court shall entertain any action to enjoin an assessment or require a refund or adjustment except in accordance with the provisions of this title. Matters which may be determined by the procedures set out in this title shall not be the subject of any declaratory judgment. [1945 c 35 § 134; Rem. Supp. 1945 § 9998-272.]

50.32.190 Costs, charges, and expenses. Whenever any appeal is taken from any decision of the commissioner to any court, all expenses and costs incurred therein by said commissioner, including court reporter costs and attorneys' fees and all costs taxed against such commissioner, shall be paid out of the unemployment compensation administration fund.

Neither the commissioner nor the state shall be charged any fee for any service rendered in connection with litigation under the unemployment compensation act by the clerk of any court. [1945 c 35 § 135; Rem. Supp. 1945 § 9998-273.]

Chapter 50.36 RCW PENALTIES

Sections

50.36.010	Violations generally.
50.36.020	Violations by employers.
50.36.030	Concealing cause of discharge.

50.36.010 Violations generally. (1) It shall be unlawful for any person to knowingly give any false information or withhold any material information required under the provisions of this title.

(2) Any person who violates any of the provisions of this title which violation is declared to be unlawful, and for which no contrary provision is made, is guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than two hundred and fifty dollars or by imprisonment in the county jail for not more than ninety days.

(3) Any person who in connection with any compromise or offer of compromise willfully conceals from any officer or employee of the state any property belonging to an employing unit which is liable for contributions, interest, or penalties, or receives, destroys, mutilates, or falsifies any book, document, or record, or makes under oath any false statement relating to the financial condition of the employing unit which is liable for contributions, is guilty of a gross misdemeanor and shall upon conviction thereof be fined not more than five thousand dollars or be imprisoned for up to three hundred sixty-four days, or both.

(4) The penalty prescribed in this section shall not be deemed exclusive, but any act which shall constitute a crime under any law of this state may be the basis of prosecution under such law notwithstanding that it may also be the basis for prosecution under this section. [2011 c 96 § 43; 2003 c 53 § 279; 1953 ex.s. c 8 § 22; 1945 c 35 § 180; Rem. Supp. 1945 § 9998-319. Prior: 1943 c 127 § 12; 1941 c 253 § 13.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

50.36.020 Violations by employers. (1) Any person required under this title to collect, account for and pay over

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any contributions imposed by this title, who willfully fails to collect or truthfully account for and pay over such contributions, and any person who willfully attempts in any manner to evade or defeat any contributions imposed by this title or the payment thereof, is guilty of a gross misdemeanor and shall, in addition to other penalties provided by law, upon conviction thereof, be fined not more than five thousand dollars, or imprisoned for up to three hundred sixty-four days, or both, together with the costs of prosecution.

(2) The term "person" as used in this section includes an officer or individual in the employment of a corporation, or a member or individual in the employment of a partnership, who as such officer, individual or member is under a duty to perform the act in respect of which the violation occurs. A corporation may likewise be prosecuted under this section and may be subjected to fine and payment of costs of prosecution as prescribed herein for a person. [2011 c 96 § 44; 2003 c 53 § 280; 1953 ex.s. c 8 § 23; 1945 c 35 § 181; Rem. Supp. 1945 § 9998-320. Prior: 1943 c 127 § 12; 1941 c 253 § 13.]

Findings—Intent—2011 c 96: See note following RCW 9A.20.021.

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

Crimes and punishment: Titles 9, 9A RCW.

50.36.030 Concealing cause of discharge. Employing units or agents thereof supplying information to the employment security department pertaining to the cause of a benefit claimant's separation from work, which cause stated to the department is contrary to that given the benefit claimant by such employing unit or agent thereof at the time of his or her separation from the employing unit's employ, shall be guilty of a misdemeanor and shall be punished by a fine of not less than twenty dollars nor more than two hundred and fifty dollars or by imprisonment in the county jail for not more than ninety days. [2010 c 8 § 13040; 1951 c 265 § 13.]

Additional notes found at www.leg.wa.gov

Chapter 50.38 RCW LABOR MARKET INFORMATION AND ECONOMIC ANALYSIS

Sections

50.38.010	Intent.
50.38.015	Definitions.
50.38.020	Occupational information responsibility—Forecast, criteria.
50.38.030	Occupational forecast—Agency consultation.
50.38.040	Annual report.
50.38.050	Department—Duties.
50.38.060	Department—Powers.
50.38.065	Moneys for nonfunded labor market information costs—Disposition.
50.38.901	Conflict with federal requirements—1993 c 62.

50.38.010 Intent. It is the intent of this chapter to establish the duties and authority of the employment security department relating to labor market information and economic analysis. State and federal law mandate the use of labor market information in the planning, coordinating, management, implementation, and evaluation of certain programs. Often this labor market information is also needed in studies for the legislature and state programs, like those dealing with growth management, community diversification,

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export assistance, prison industries, energy, agriculture, social services, and environment. Employment, training, education, job creation, and other programs are often mandated without adequate federal or state funding for the needed labor market information. Clarification of the department's duties and authority will assist users of state and local labor market information products and services to have realistic expectations and provide the department authority to recover actual costs for labor market information products and services developed in response to individual requests. [1993 c 62 § 1; 1982 c 43 § 1.]

50.38.015 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Labor market information" means the body of information generated from measurement and evaluation of the socioeconomic factors and variables influencing the employment process in the state and specific labor market areas. These socioeconomic factors and variables affect labor demand and supply relationships and include:

(a) Labor force information, which includes but is not limited to employment, unemployment, labor force participation, labor turnover and mobility, average hours and earnings, and changes and characteristics of the population and labor force within specific labor market areas and the state;

(b) Occupational information, which includes but is not limited to occupational supply and demand estimates and projections, characteristics of occupations, wage levels, job duties, training and education requirements, conditions of employment, unionization, retirement practices, and training opportunities;

(c) Economic information, which includes but is not limited to number of business starts and stops by industry and labor market area, information on employment growth and decline by industry and labor market area, employer establishment data, and number of labor-management disputes by industry and labor market area; and

(d) Program information, which includes but is not limited to program participant or student information gathered in cooperation with other state and local agencies along with related labor market information to evaluate the effectiveness, efficiency, and impact of state and local employment, training, education, and job creation efforts in support of planning, management, implementation, and evaluation.

(2) "Labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such areas shall be identified in accordance with criteria used by the bureau of labor statistics of the department of labor in defining such areas or similar criteria established by the governor. The area generally takes the name of its community. The boundaries depend primarily on economic and geographic factors. Washington state is divided into labor market areas, which usually include a county or a group of contiguous counties.

(3) "Labor market analysis" means the measurement and evaluation of economic forces as they relate to the employment process in the local labor market area. Variables affecting labor market relationships include, but are not limited to,

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such factors as labor force changes and characteristics, population changes and characteristics, industrial structure and development, technological developments, shifts in consumer demand, volume and extent of unionization and trade disputes, recruitment practices, wage levels, conditions of employment, and training opportunities.

(4) "Public records" has the same meaning as set forth in RCW 42.56.010.

(5) "Department" means the employment security department. [2011 c 60 § 46; 1993 c 62 § 2.]

Effective date—2011 c 60: See RCW 42.17A.919.

50.38.020 Occupational information responsibility—Forecast, criteria. The Washington state employment security department shall be the responsible state entity for the development, administration, and dissemination of Washington state occupational information, including the state occupational forecast. The generation of the forecast is subject to the following criteria:

(1) The occupational forecast shall be consistent with the state economic forecast;

(2) Standardized occupational classification codes shall be adopted, to be cross-referenced with other generally accepted occupational codes. [1982 c 43 § 2.]

50.38.030 Occupational forecast—Agency consultation. The employment security department shall consult with the following agencies prior to the issuance of the state occupational forecast:

- (1) Office of financial management;
- (2) *Department of community, trade, and economic development;
- (3) Department of labor and industries;
- (4) State board for community and technical colleges;
- (5) Superintendent of public instruction;
- (6) Department of social and health services;
- (7) Workforce training and education coordinating board; and
- (8) Other state and local agencies as deemed appropriate by the commissioner of the employment security department.

These agencies shall cooperate with the employment security department, submitting information relevant to the generation of occupational forecasts. [1995 c 399 § 142; 1993 c 62 § 3; 1985 c 466 § 66; 1985 c 6 § 18; 1982 c 43 § 3.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

Additional notes found at www.leg.wa.gov

50.38.040 Annual report. The department shall submit an annual report to the legislature and the governor that includes, but is not limited to:

- (1) Identification and analysis of industries in the United States, Washington state, and local labor markets with high levels of seasonal, cyclical, and structural unemployment;
- (2) The industries and local labor markets with plant closures and mass lay-offs and the number of affected workers;
- (3) An analysis of the major causes of plant closures and mass lay-offs;
- (4) The number of dislocated workers and persons who have exhausted their unemployment benefits, classified by industry, occupation, and local labor markets;

(5) The experience of the unemployed in their efforts to become reemployed. This should include research conducted on the continuous wage and benefit history;

(6) Five-year industry and occupational employment projections; and

(7) Annual and hourly average wage rates by industry and occupation. [1993 c 62 § 4.]

50.38.050 Department—Duties. The department shall have the following duties:

(1) Oversight and management of a statewide comprehensive labor market and occupational supply and demand information system, including development of a five-year employment forecast for state and labor market areas;

(2) Produce local labor market information packages for the state's counties, including special studies and job impact analyses in support of state and local employment, training, education, and job creation programs, especially activities that prevent job loss, reduce unemployment, and create jobs;

(3) Coordinate with the office of financial management and the office of the forecast council to improve employment estimates by enhancing data on corporate officers, improving business establishment listings, expanding sample for employment estimates, and developing business entry/exit analysis relevant to the generation of occupational and economic forecasts;

(4) In cooperation with the office of financial management, produce long-term industry and occupational employment forecasts. These forecasts shall be consistent with the official economic and revenue forecast council biennial economic and revenue forecasts; and

(5) Analyze labor market and economic data, including the use of input-output models, for the purpose of identifying industry clusters and strategic industry clusters that meet the criteria identified by the working group convened by the department of commerce and the workforce training and education coordinating board under chapter 43.330 RCW. [2014 c 112 § 119; 2009 c 151 § 2; 1993 c 62 § 5.]

50.38.060 Department—Powers. To implement this chapter, the department has authority to:

(1) Establish mechanisms to recover actual costs incurred in producing and providing otherwise nonfunded labor market information.

(a) If the commissioner, in his or her discretion, determines that providing labor market information is in the public interest, the requested information may be provided at reduced costs.

(b) The department shall provide access to labor market information products that constitute public records available for public inspection and copying under chapter 42.56 RCW, at fees not exceeding those allowed under RCW 42.56.120 and consistent with the department's fee schedule;

(2) Receive federal set aside funds from several federal programs that are authorized to fund state and local labor market information and are required to use such information in support of their programs;

(3) Enter into agreements with other public agencies for statistical analysis, research, or evaluation studies of local, state, and federally funded employment, training, education, and job creation programs to increase the efficiency or qual-

ity of service provided to the public consistent with chapter 50.13 RCW;

(4) Coordinate with other state agencies to study ways to standardize federal and state multiagency administrative records, such as unemployment insurance information and other information to produce employment, training, education, and economic analysis needed to improve labor market information products and services; and

(5) Produce agricultural labor market information and economic analysis needed to facilitate the efficient and effective matching of the local supply and demand of agricultural labor critical to an effective agricultural labor exchange in Washington state. Information collected for an agricultural labor market information effort will be coordinated with other federal, state, and local statistical agencies to minimize reporting burden through cooperative data collection efforts for statistical analysis, research, or studies. [2005 c 274 § 324; 1993 c 62 § 6.]

50.38.065 Moneys for nonfunded labor market information costs—Disposition. Moneys received under RCW 50.38.060(1) to cover the actual costs of nonfunded labor market information shall be deposited in the unemployment compensation administration fund and expenditures shall be authorized only by appropriation. [1993 c 62 § 7.]

50.38.901 Conflict with federal requirements—1993 c 62. 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 or the eligibility of employers in this state for federal unemployment tax credits, 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 or the granting of federal unemployment tax credits to employers in this state. [1993 c 62 § 10.]

Chapter 50.40 RCW

MISCELLANEOUS PROVISIONS

Sections

50.40.010	Waiver of rights void.
50.40.020	Exemption of benefits.
50.40.040	No vested rights.
50.40.050	Child support obligations.
50.40.071	Accessible communities account—Creation.
50.40.073	Accessible communities account—Use of funds—Rules.

50.40.010 Waiver of rights void. (1) Any agreement by an individual to waive, release, or commute his or her rights to benefits or any other rights under this title shall be void.

(2) Any agreement by an individual in the employ of any person or concern to pay all or any portion of an employer's contributions, required under this title from such employer, shall be void.

(3) No employer shall directly or indirectly make or require or accept any deduction from remuneration for services to finance the employer's contributions required from

him or her, or require or accept any waiver of any right hereunder by any individual in his or her employ.

(4) A person violating this section is guilty of a gross misdemeanor. [2003 c 53 § 281; 1945 c 35 § 182; Rem. Supp. 1945 § 9998-321. Prior: 1943 c 127 § 11; 1941 c 253 § 12; 1939 c 214 § 13; 1937 c 162 § 15.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

50.40.020 Exemption of benefits. Any assignment, pledge, or encumbrance of any right to benefits which are or may become due or payable under this title shall be void. Such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debts, except as provided in RCW 50.40.050. Benefits received by any individual, so long as they are not commingled with other funds of the recipient, shall be exempt from any remedy whatsoever for collection of all debts except debts incurred for necessities furnished such individual or his or her spouse or dependents during the time when such individual was unemployed. Any waiver of any exemption provided for in this section shall be void. [2010 c 8 § 13041; 1982 1st ex.s. c 18 § 10. Prior: 1982 c 201 § 7; 1945 c 35 § 183; Rem. Supp. 1945 § 9998-322; prior: 1943 c 127 § 11; 1941 c 253 § 12; 1939 c 214 § 13; 1937 c 162 § 15. Formerly codified in RCW 50.40.020, part and 50.40.030, part.]

Additional notes found at www.leg.wa.gov

50.40.040 No vested rights. The legislature reserves the right to amend or repeal all or any part of this title at any time; and there shall be no vested private right of any kind against such amendment or repeal. All the rights, privileges, or immunities conferred by this title or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal this title at any time. [1945 c 35 § 187; no RRS. Prior: 1941 c 253 § 1; 1939 c 214 § 1; 1937 c 162 § 3.]

50.40.050 Child support obligations. (1) An individual filing a new claim for unemployment compensation shall, at the time of filing the claim, disclose whether or not the individual owes child support obligations as defined under subsection (7) of this section. If the individual discloses that he or she owes child support obligations and is determined to be eligible for unemployment compensation, the commissioner shall notify the state or local child support enforcement agency enforcing those obligations that the individual has been determined to be eligible for unemployment compensation.

(2) The commissioner shall deduct and withhold from any unemployment compensation payable to an individual who owes child support obligations as defined under subsection (7) of this section:

(a) The amount specified by the individual to the commissioner to be deducted and withheld under this subsection, if neither (b) nor (c) of this subsection is applicable;

(b) The amount (if any) determined pursuant to an agreement submitted to the commissioner under section 454(20)(B)(i) of the Social Security Act by the state or local child support enforcement agency, unless (c) of this subsection is applicable; or

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(c) Any amount otherwise required to be so deducted and withheld from such unemployment compensation pursuant to legal process, as that term is defined in section 462(e) of the Social Security Act, properly served upon the commissioner.

(3) Any amount deducted and withheld under subsection (2) of this section shall be paid by the commissioner to the appropriate state or local child support enforcement agency.

(4) Any amount deducted and withheld under subsection (2) of this section shall be treated for all purposes as if it were paid to the individual as unemployment compensation and paid by that individual to the state or local child support enforcement agency in satisfaction of the individual's child support obligations.

(5) For the purposes of this section, "unemployment compensation" means any compensation payable under this chapter including amounts payable by the commissioner under an agreement under any federal law providing for compensation, assistance, or allowances with respect to unemployment.

(6) This section applies only if appropriate arrangements have been made for reimbursement by the state or local child support enforcement agency for the administrative costs incurred by the commissioner under this section which are attributable to child support obligations being enforced by the state or local child support enforcement agency.

(7) "Child support obligations" as used in this section means only those obligations which are being enforced pursuant to a plan described in section 454 of the Social Security Act which has been approved by the secretary of health and human services under part D of Title IV of the Social Security Act.

(8) "State or local child support enforcement agency" as used in this section means any agency of this state or a political subdivision thereof operating pursuant to a plan described in subsection (7) of this section. [1982 1st ex.s. c 18 § 11. Prior: 1982 c 201 § 3.]

Additional notes found at www.leg.wa.gov

50.40.071 Accessible communities account—Creation. (1) The accessible communities account is created in the custody of the state treasurer. One hundred dollars of the assessment imposed under RCW 46.19.050 (2), (3), and (4) must be deposited into the account. Any reduction in the penalty or fine and assessment imposed under section 6, chapter 215, Laws of 2010 shall be applied proportionally between the penalty or fine and the assessment.

(2) The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures. Only the commissioner may authorize expenditures from the account.

(3) Expenditures from the account may be used for promoting greater awareness of disability issues and improved access for and inclusion and acceptance of persons with disabilities in communities in the state of Washington, including:

(a) Reimbursing travel, per diem, and reasonable accommodation for county accessible community advisory committee meetings and committee sponsored activities including, but not limited to, supporting the involvement of people with disabilities and disability organizations in emergency planning and emergency preparedness activities;

(b) Establishing and maintaining an accessible communities web site;

(c) Providing training or technical assistance for county accessible community advisory committees;

(d) A grant program for funding proposals developed and submitted by county accessible community advisory committees to promote greater awareness of disability issues and acceptance, inclusion, and access for persons with disabilities within the community;

(e) Reimbursing the state agency that provides administrative support to the governor's committee on disability issues and employment for costs associated with implementing chapter 215, Laws of 2010; and

(f) Programming changes to the judicial information system accounting module required for disbursement of funds to this account. [2011 c 171 § 105; 2010 c 215 § 2.]

Intent—Effective date—2011 c 171: See notes following RCW 4.24.210.

Findings—2010 c 215: "The legislature finds that when people who have disabilities are welcomed and included as members of our communities and provided with equal access to the opportunities available to others, their participation enriches those communities, enhances the strength of those communities' diversity, and contributes toward the economic vitality of those communities. The legislature further finds that more than nine hundred thousand Washington state residents with disabilities continue to face barriers to full participation that could be easily eliminated." [2010 c 215 § 1.]

50.40.073 Accessible communities account—Use of funds—Rules. (1) To the extent allowed by funds available from the accessible communities account created in RCW 50.40.071, the governor's committee on disability issues and employment shall:

(a) Determine eligibility of accessible community advisory committees for reimbursement or for grant funding according to RCW 36.01.310; and

(b) Solicit proposals from active accessible community advisory committees for projects to improve disability awareness and access for persons with disabilities, and shall select projects for funding from moneys available in the accessible communities account.

(2) The commissioner shall adopt rules to administer this section.

(3) To the extent allowed by funds available from the accessible communities account created in RCW 50.40.071, the governor's committee on disability issues and employment shall establish an accessible communities web site to provide the following information: Guidance, technical assistance, reference materials, and resource identification for local governments, accessible community advisory committees, and public accommodations; examples of best practices for local initiatives and activities to promote greater awareness of disability issues and access for persons with disabilities within the community; and a searchable listing of local public accommodations that have taken steps to be more disability friendly, including information on the specific access features provided. [2010 c 215 § 3.]

Findings—2010 c 215: See note following RCW 50.40.071.

Chapter 50.44 RCW SPECIAL COVERAGE PROVISIONS

Sections

50.44.010	Religious, charitable, educational, or other nonprofit organizations—Exemption—Payments.
50.44.020	Instrumentalities of this state, other states, political subdivisions.
50.44.030	Political subdivisions, instrumentalities of this state and other state.
50.44.035	Local government tax.
50.44.037	"Institution of higher education" defined.
50.44.040	Services excluded under "employment" for certain purposes.
50.44.045	Religious organizations—Exemption—Notification to employee.
50.44.050	Benefits payable, terms and conditions—"Academic year" defined.
50.44.053	Education employees—Determination of "contract" or "reasonable assurance."
50.44.055	Finding—Intent—Reasonable assurance, application to employees of educational institutions.
50.44.060	Nonprofit organization employees—Financing of benefits—Election of payments in lieu of contributions.
50.44.070	Election to make payments in lieu of contributions—Bond or deposit.
50.44.080	Construction—Compliance with federal unemployment tax act, department of labor guidelines.
50.44.090	Construction—Mandatory coverage of employees of political subdivision under 1977 ex.s. c 292.

Coverage of corporate officers: RCW 50.04.165.

50.44.010 Religious, charitable, educational, or other nonprofit organizations—Exemption—Payments. Services performed subsequent to December 31, 1971, by an individual in the employ of a religious, charitable, educational or other organization which is excluded from the term "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(8) of that act shall be deemed services performed in employment unless such service is exempted under RCW 50.44.040.

Such organization shall make payments to the unemployment compensation fund based on such services in accordance with the provisions of RCW 50.44.060. [1971 c 3 § 18.]

50.44.020 Instrumentalities of this state, other states, political subdivisions. Commencing with benefit years beginning on or after January 28, 1971, services performed subsequent to September 30, 1969 in the employ of this state or any of its wholly owned instrumentalities or jointly owned instrumentalities of this state and another state or this state and one or more of its political subdivisions shall be deemed services in employment unless such services are excluded from the term employment by RCW 50.44.040.

The state shall make payments in lieu of contributions with respect to benefits attributable to such employment as provided with respect to nonprofit organizations in subsections (2) and (3) of RCW 50.44.060: PROVIDED, HOWEVER, That for weeks of unemployment beginning after January 1, 1979, the state shall pay in addition to the full amount of regular and additional benefits so attributable the full amount of extended benefits so attributable: PROVIDED, FURTHER, That no payment will be required from the state until the expiration of the twelve-month period following the end of the biennium in which the benefits attributable to such employment were paid. The amount of this payment shall include an amount equal to the amount of interest that would have been realized for the benefit of the unemployment com-

compensation trust fund had such payments been received within thirty days after the day of the quarterly billing provided for in RCW 50.44.060(2)(a). [1977 ex.s. c 292 § 13; 1971 c 3 § 19.]

Additional notes found at www.leg.wa.gov

50.44.030 Political subdivisions, instrumentalities of this state and other state. (1) All services performed for any political subdivision or instrumentality of one or more political subdivisions of this state or one or more political subdivisions of this state and any other state after December 31, 1977, will be deemed to be services in employment to the extent coverage is not exempted under RCW 50.44.040.

(2) All such units of government shall file, before December 15, 1977, a written registration with the commissioner of the employment security department. Such registration shall specify the manner in which the unit of government will finance the payment of benefits. The elections available to counties, cities and towns are the local government tax, provided for in RCW 50.44.035, or payment in lieu of contributions, as described in RCW 50.44.060. The elections available to other units of government are the contributions plan in chapters 50.24 and 50.29 RCW, or payments in lieu of contributions, described in RCW 50.44.060. Under any election the governmental unit will be charged the full amount of regular, additional, and extended benefits attributable to its account.

(3) A unit of government may switch from its current method of financing the payment of benefits by electing any other method which it would be authorized to select pursuant to the terms of subsection (2) of this section. Notification of such election must be filed with the commissioner no less than thirty days prior to the taxable year for which the new method of financing the payment of benefits is to be effective. An election under this section shall remain in effect for no less than two taxable years.

(4) Any political subdivision or instrumentality of more than one political subdivision of this state is hereby authorized to enter into agreements with other political subdivisions or instrumentalities of more than one political subdivision of this state to form pool accounts for the purpose of making payments in lieu of contributions. These accounts shall be formed and administered in accordance with applicable regulations. The formation of such accounts shall not relieve the governmental unit of the responsibility for making required payments in the event that the pool account does not make the payments. [1981 c 35 § 11; 1977 ex.s. c 292 § 14; 1972 ex.s. c 35 § 2; 1971 c 3 § 20.]

Additional notes found at www.leg.wa.gov

50.44.035 Local government tax. (1) Any county, city, or town not electing to make payments in lieu of contributions shall pay a "local government tax." Taxes paid under this section shall be paid into an administratively identifiable account in the unemployment compensation fund. This account shall be self-sustaining. For calendar years 1978 and 1979 all such employers shall pay local government tax at the rate of one and one-quarter percent of all remuneration paid by the governmental unit for services in its employment. For each year after 1979 each such employer's rate of tax shall be determined in accordance with this section: PROVIDED, HOWEVER, That whenever it appears to the commissioner

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that the anticipated benefit payments from the account would jeopardize reasonable reserves in this identifiable account the commissioner may at the commencement of any calendar quarter, impose an emergency excess tax of not more than one percent of remuneration paid by the participating governmental units which "excess tax" shall be paid in addition to the applicable rate computed pursuant to this section until the calendar year following the next September 1st.

(2) A reserve account shall be established for each such employer.

(a) The "reserve account" of each such employer shall be credited with tax amounts paid and shall be charged with benefit amounts charged in accordance with the formula set forth in RCW 50.44.060 as now or hereafter amended except that such employer's account shall be charged for the full amount of extended benefits so attributable for weeks of unemployment commencing after January 1, 1979. Such credits and charges shall be cumulative from January 1, 1978.

(b) After the cutoff date, the "reserve ratio" of each such employer shall be computed by dividing its reserve account balance as of the computation date by the total remuneration paid during the preceding calendar year for services in its employment. This division shall be carried to four decimal places, with the remaining fraction, if any, disregarded.

(3) A "benefit cost ratio" for each such employer shall be computed by dividing its total benefit charges during the thirty-six months ending on June 30th by its total remuneration during the three preceding calendar years: PROVIDED, That after August 31st in 1979 each employer's total benefit charges for the twelve months ending on June 30th shall be divided by its total remuneration paid in the last three quarters of calendar year 1978; and after August 31st in 1980 each employer's total benefit charges for the twenty-four months ending June 30th shall be divided by its total remuneration paid in the last three calendar quarters of 1978 and the four calendar quarters of 1979. Such computations shall be carried to four decimal places, with the remaining fraction, if any, disregarded.

(4) For each such employer its benefit cost ratio shall be subtracted from its reserve ratio. One-third of the resulting amount shall be subtracted from its benefit cost ratio. The resulting figure, expressed as a percentage and rounded to the nearest tenth of one percent, shall become its local government tax rate for the following rate year. For the rate year 1980 no tax rate shall be less than 0.6 percent nor more than 2.2 percent. For 1981 no tax rate shall be less than 0.4 percent nor more than 2.6 percent. For years after 1981 no tax rate shall be less than 0.2 percent or more than 3.0 percent. No individual rate shall be increased any more than 1.0 percent from one rate year to the next.

(5) Any county, city, or town electing participation under this section at any time after December 15, 1977, shall be assigned a tax rate of one and one-quarter percent of total remuneration for the first eight quarters of the participation.

(6) "Local government tax" shall be deemed to be "contributions" to the extent that such usage is consistent with the purposes of this title. Such construction shall include but not be limited to those portions of this title and the rules enacted pursuant thereto dealing with assessments, interest, penalties, liens, collection procedures and remedies, administrative and judicial review, and the imposition of administrative, civil,

and criminal sanctions. [1998 c 245 § 100; 1983 1st ex.s. c 23 § 22; 1977 ex.s. c 292 § 15.]

Additional notes found at www.leg.wa.gov

50.44.037 "Institution of higher education" defined.

For the purposes of this chapter, the term "institution of higher education" means an educational institution in this state which:

(1) Admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

(2) Is legally authorized within this state to provide a program of education beyond high school;

(3) Provides an educational program for which it awards a bachelor's or higher degree, or provides a program which is acceptable for full credit toward such a degree, or offers a program of training to prepare students for gainful employment in a recognized occupation; and

(4) Is a public or other nonprofit institution.

Notwithstanding any of the foregoing subsections, all colleges and universities in this state are "institutions of higher education". [1977 ex.s. c 292 § 16.]

Additional notes found at www.leg.wa.gov

50.44.040 Services excluded under "employment" for certain purposes. The term "employment" as used in RCW 50.44.010, 50.44.020, and 50.44.030 shall not include service performed:

(1) In the employ of (a) a church or convention or association of churches, or (b) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches; however, the employer shall notify its employees as required by RCW 50.44.045; or

(2) By a duly ordained, commissioned, or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order; or

(3) In a facility conducted for the purpose of carrying out a program of (a) rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury, or (b) providing remunerative work for individuals who because of their impaired physical or mental capacity cannot be readily absorbed in the competitive labor market, by an individual receiving such rehabilitation or remunerative work; or

(4) As part of an unemployment work-relief or work-training program assisted or financed in whole or in part by a federal agency or an agency of a state or political subdivision thereof, by an individual receiving such work-relief or work-training; or

(5) For a custodial or penal institution by an inmate of the custodial or penal institution; or

(6) In the employ of a hospital, if such service is performed by a patient of such hospital; or

(7) In the employ of a school, college, or university, if such service is performed (a) by a student who is enrolled and is regularly attending classes at such school, college, or university, or (b) by the spouse of such a student, if such spouse is advised, at the time such spouse commences to perform

such service, that (i) the employment of such spouse to perform such service is provided under a program to provide financial assistance to such student by such school, college, or university, and (ii) such employment will not be covered by any program of unemployment insurance; or

(8) By an individual under the age of twenty-two who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full time program, taken for credit at such institution, which combines academic instruction with work experience, if such service is an integral part of such program, and such institution has so certified to the employee, except that this subsection shall not apply to service performed in a program established for or on behalf of an employer or group of employers; or

(9) In the employ of a nongovernmental preschool which is devoted exclusively to the area of child development training of preschool age children through an established curriculum of formal classroom or laboratory instruction which did not employ four or more individuals on each of some twenty days during the calendar year or the preceding calendar year, each day being in a different calendar week; or

(10) In the employ of the state or any of its instrumentalities or political subdivisions of this state in any of its instrumentalities by an individual in the exercise of duties:

(a) As an elected official;

(b) As a member of the national guard or air national guard; or

(c) In a policymaking position the performance of the duties of which ordinarily do not require more than eight hours per week. [2010 c 8 § 13042; 2007 c 386 § 1; 1977 ex.s. c 292 § 17; 1975 1st ex.s. c 67 § 1; 1975 c 4 § 1; 1973 c 73 § 9; 1971 c 3 § 21.]

Exemption from unemployment compensation coverage conservation corps members: RCW 43.220.170.

Washington service corps enrollees: RCW 50.65.120.

Additional notes found at www.leg.wa.gov

50.44.045 Religious organizations—Exemption—Notification to employee. A church or convention or association of churches, or an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or convention or association of churches shall inform each individual performing services exempt from "employment" under RCW 50.44.040(1) that the individual may not be eligible to receive unemployment benefits based on such services. The employer shall provide a written notice of this exclusion to the individual at the time of hire. The employer shall display a poster giving notice of this exclusion in a conspicuous place. The employer's compliance with these notice requirements shall not affect an individual's eligibility for benefits. The employment security department shall make posters available to employers without charge. [2007 c 386 § 2.]

50.44.050 Benefits payable, terms and conditions—"Academic year" defined. Except as otherwise provided in subsections (1) through (5) of this section, 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.

(1) Benefits based on service in an instructional, research, or principal administrative capacity for an educational institution shall not be paid to an individual for any week of unemployment which commences during the period between two successive academic years or between two successive academic terms within an academic year (or, when an agreement provides instead for a similar period between two regular but not successive terms within an academic year, during such period) if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for an educational institution in the second of such academic years or terms.

(2) Benefits shall not be paid based on services in any other capacity for an educational institution for any week of unemployment which commences during the period between two successive academic years or between two successive academic terms within an academic year, if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms: PROVIDED, That if benefits are denied to any individual under this subsection and that individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(3) Benefits shall not be paid based on any services described in subsections (1) and (2) of this section for any week of unemployment which commences during an established and customary vacation period or holiday recess if such individual performs such services for an educational institution in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services for an educational institution in the period immediately following such vacation period or holiday recess.

(4) Benefits shall not be paid (as specified in subsections (1), (2), or (3) of this section) based on any services described in subsections (1) or (2) of this section to any individual who performed such services in any educational institution while in the employ of an educational service district which is established pursuant to chapter 28A.310 RCW and exists to provide services to local school districts.

(5) When an individual performs services for more than one educational institution in an academic year or term, wages earned by the individual from those educational institutions that do not provide a contract or reasonable assurance of employment in the subsequent academic year or term may be used to establish a claim for benefits, even if a contract or reasonable assurance exists for another educational institution.

(6) As used in this section, "academic year" means: Fall, winter, spring, and summer quarters or comparable semesters unless, based upon objective criteria including enrollment

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and staffing, the quarter or comparable semester is not in fact a part of the academic year for the particular institution. [2018 c 97 § 1; 2001 c 100 § 2; 1998 c 233 § 2; 1995 c 296 § 2; 1990 c 33 § 587; 1984 c 140 § 2; 1983 1st ex.s. c 23 § 23; 1981 c 35 § 12; 1980 c 74 § 2; 1977 ex.s. c 292 § 18; 1975 1st ex.s. c 228 § 17; 1973 c 73 § 10; 1971 c 3 § 22.]

Conflict with federal requirements—2018 c 97: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and this finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2018 c 97 § 4.]

Application—2018 c 97: "This act applies to claimed weeks of unemployment on or after October 1, 2018." [2018 c 97 § 6.]

Intent—Findings—2001 c 100: "It is the intent of the legislature to clarify requirements related to the use of base year hours and wages for certain employees at educational institutions, for the purpose of determining eligibility for unemployment insurance benefits.

The legislature finds that, unless clarified, Washington's unemployment compensation law may be out of conformity with the federal unemployment tax act, which poses a significant economic risk to the state's private employers, the state's general fund, and to the administration of the state's unemployment insurance system. It is the intent of the legislature to change Washington's unemployment law only to the extent necessary to ensure it conforms with federal law governing the use of base year hours and wages earned at educational institutions.

The legislature finds that the United States department of labor will rely on state law and its application as interpreted in state court decisions, especially *Pechman v. Employment Security*, to determine if Washington state law conforms to federal guidelines in this area. Therefore, it is the intent of the legislature to clearly communicate to the courts that the purpose for the section 2, chapter 100, Laws of 2001 amendment to RCW 50.44.050 is to interpret state law in a manner that conforms to federal guidelines.

The legislature finds that federal law requires that school hours and wages in the base year must be restricted from use to establish eligibility for an unemployment compensation claim for employees of educational institutions during specified times. Further, federal law specifies that when required to restrict base year school hours and wages, it must be any and all hours and wages from any and all educational institutions, not just the hours and wages from institutions where there is a reasonable assurance of returning to work following a customary nonwork period. Therefore, it is the intent of the legislature to restrict hours worked and wages earned as required by federal law.

Customary nonwork periods for educational institutions include:

- (1) The period between two successive academic years;
- (2) The period between two successive academic terms within an academic year;
- (3) A similar period between two regular but not successive terms within an academic year; or
- (4) An established and customary vacation period or holiday recess.

Restricted use of base year hours and wages from educational institutions shall occur only in the circumstances described in RCW 50.44.050 (as amended by chapter 100, Laws of 2001) and in RCW 50.44.053, and as further defined in rules promulgated by the employment security department." [2001 c 100 § 1.]

Intent—Findings—1998 c 233: "It is the intent of the legislature to clarify requirements related to unemployment compensation for employees at educational institutions.

The legislature finds that, unless clarified, Washington's unemployment compensation law may be out of conformity with the federal unemployment tax act, which finding poses a significant economic risk to the state's private employers and to the administration of the state's unemployment insurance system. It is the intent of the legislature, by the 1998, chapter 233 amendments to RCW 50.44.050 and 50.44.053, to bring Washington's unemployment compensation law into conformity with federal law in these areas of concern.

The legislature finds that some instructional staff at the state's educational institutions receive an appointment of employment for an indefinite

period while others may face circumstances that do not provide a reasonable expectation of employment during an ensuing academic year or term.

Therefore, it is the intent of the legislature that the employment security department continue to make determinations of educational employees' eligibility for unemployment compensation for the period between academic years or terms based on a finding of reasonable assurance that the employee will have employment for the ensuing academic year or term and that the determination in each employee's case is made on an individual basis, consistent with federal guidelines. This determination must take into consideration contingencies that may exist in fact in an individual case. The 1998, chapter 233 amendment to RCW 50.44.053 is not intended to change the practice used by the employment security department when determining reasonable assurance. If, during fact-finding, there is a disagreement about whether an individual has reasonable assurance, the educational institution must provide documentation that reasonable assurance exists for that individual." [1998 c 233 § 1.]

Purpose—Statutory references—Severability—1990 c 33: See RCW 28A.900.100 through 28A.900.102.

Additional notes found at www.leg.wa.gov

50.44.053 Education employees—Determination of "contract" or "reasonable assurance." (1) The following prerequisite requirements must be met before making a determination about whether there is a "contract," under RCW 50.44.050, or "reasonable assurance," under RCW 50.44.050 and 50.44.055:

(a) The offer of employment may be written, verbal, or implied, and must be made by an individual with actual authority to offer employment;

(b) The offer of employment provides that the employee will perform services in the same capacity during the ensuing academic year or term (or remainder of the current academic year or term) as in the first academic year or term; and

(c) The economic conditions of the offer of employment may not be considerably less in the following academic year or term (or portion thereof) than in the first academic year or term (or portion thereof). "Considerably less" includes the condition that the individual will not earn at least ninety percent of the wages earned in the prior academic year or term.

(2) If all prerequisite requirements in subsection (1) of this section are satisfied, the department must determine if a contract exists. If any prerequisite in subsection (1) of this section is not satisfied, the department may not deny the claimant unemployment compensation based on the between and within term denial provisions. The term "contract," as that term is used in this section and RCW 50.44.050, means an enforceable, noncontingent agreement that provides for compensation for an entire academic year or on an annual basis. If a contract exists, the claimant may be subject to a denial of benefits.

(3) If no contract exists, the department must determine if the claimant has "reasonable assurance." The following factors will be considered in determining if an individual has "reasonable assurance," as that term is used in this section, RCW 50.44.050, and 50.44.055. For reasonable assurance to exist, each factor must be satisfied.

(a) If any contingencies in the employment offer are within the employer's control the claimant will not be considered to have reasonable assurance of employment. Contingencies within the employer's control include, but are not limited to:

- (i) Course programming;
- (ii) Funding allocation decisions;
- (iii) Final course offerings; and

(iv) Facility availability.

(b) If contingencies are not within the employer's control, the department must determine whether it is highly probable the contingencies contained within the offer will be satisfied. Primary weight will be given to the contingent nature of an offer of employment.

(c) Reasonable assurance must be determined on a case-by-case basis considering the totality of circumstances rather than on the existence of any one factor. For an individual to have reasonable assurance of employment, the totality of the circumstances must show that it is highly probable that employment will be available in the next academic year or term, and that the contingencies of that employment will be satisfied.

(4) An individual who is tenured or holds tenure track status is considered to have reasonable assurance, unless advised otherwise by the college. For the purposes of this section, tenure track status means a probationary faculty employee having an opportunity to be reviewed for tenure. [2018 c 97 § 2; 2001 c 99 § 2; 1998 c 233 § 3; 1995 c 296 § 3; 1985 ex.s. c 5 § 9.]

Conflict with federal requirements—Application—2018 c 97: See notes following RCW 50.44.050.

Intent—Findings—Conflict with federal requirements—Effective date—1998 c 233: See notes following RCW 50.44.050.

Additional notes found at www.leg.wa.gov

50.44.055 Finding—Intent—Reasonable assurance, application to employees of educational institutions. The legislature finds the interests of the state and its citizens are best served by a strong education system. Paramount to that system's success is the attraction and retention of qualified instructors. In order to attract and retain instructors, those who are subject to uncertainties of employment must be provided assurance that their economic needs are addressed. Contingent assurances of future employment are often speculative and do not rise to the level of other forms of assurance. As such, the factors presented in RCW 50.44.053 must be used to determine if reasonable assurance of employment exists.

It is the intent of the legislature that reasonable assurance continue to apply to all employees of educational institutions as required by federal provisions and RCW 50.44.080. [2018 c 97 § 3; 2001 c 99 § 1.]

Conflict with federal requirements—Application—2018 c 97: See notes following RCW 50.44.050.

Additional notes found at www.leg.wa.gov

50.44.060 Nonprofit organization employees—Financing of benefits—Election of payments in lieu of contributions. Benefits paid to employees of "nonprofit organizations" shall be financed in accordance with the provisions of this section. For the purpose of this section and RCW 50.44.070, the term "nonprofit organization" is limited to those organizations described in RCW 50.44.010, and joint accounts composed exclusively of such organizations.

(1) Any nonprofit organization which is, or becomes subject to this title on or after January 1, 1972, shall pay contributions under the provisions of RCW 50.24.010 and chapter 50.29 RCW, unless it elects, in accordance with this subsection, to pay to the commissioner for the unemployment

compensation fund an amount equal to the full amount of regular and additional benefits and one-half of the amount of extended benefits paid to individuals for weeks of unemployment that are based upon wages paid or payable during the effective period of such election to the extent that such payments are attributable to service in the employ of such nonprofit organization.

(a) Any nonprofit organization which becomes subject to this title after January 1, 1972, may elect to become liable for payments in lieu of contributions for a period of not less than twelve months beginning with the date on which such subjectivity begins by filing a written notice of its election with the commissioner not later than thirty days immediately following the date of the determination of such subjectivity.

(b) Any nonprofit organization which makes an election in accordance with (a) of this subsection will continue to be liable for payments in lieu of contributions until it files with the commissioner a written notice terminating its election not later than thirty days prior to the beginning of the taxable year for which such termination shall first be effective.

(c) Any nonprofit organization which has been paying contributions under this title for a period subsequent to January 1, 1972, may change to a reimbursable basis by filing with the commissioner not later than thirty days prior to the beginning of any taxable year a written notice of election to become liable for payments in lieu of contributions. Such election shall not be terminable by the organization for that and the next year.

(d) The commissioner may for good cause extend the period within which a notice of election, or a notice of termination, must be filed and may permit an election to be retroactive but not any earlier than with respect to benefits paid after December 31, 1969.

(e) The commissioner, in accordance with such regulations as the commissioner may prescribe, shall notify each nonprofit organization of any determination which the commissioner may make of its status as an employer and of the effective date of any election which it makes and of any termination of such election. Any nonprofit organization subject to such determination and dissatisfied with such determination may file a request for review and redetermination with the commissioner within thirty days of the mailing of the determination to the organization. Should such request for review and redetermination be denied, the organization 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 paragraph.

(2) Payments in lieu of contributions shall be made in accordance with the provisions of this section including either (a) or (b) of this subsection.

(a) At the end of each calendar quarter, the commissioner shall bill each nonprofit organization or group of such organizations which has elected to make payments in lieu of contributions for an amount equal to the full amount of regular and additional benefits plus one-half of the amount of extended benefits paid during such quarter that is attributable to service in the employ of such organization.

(b)(i) Each nonprofit organization that has elected payments in lieu of contributions may request permission to make such payments as provided in this paragraph. Such method of payment shall become effective upon approval by the commissioner.

(ii) At the end of each calendar quarter, or at the end of such other period as determined by the commissioner, the commissioner shall bill each nonprofit organization for an amount representing one of the following:

(A) The percentage of its total payroll for the immediately preceding calendar year as the commissioner shall determine. Such determination shall be based each year on the average benefit costs attributable to service in the employ of nonprofit organizations during the preceding calendar year.

(B) For any organization which did not pay wages throughout the four calendar quarters of the preceding calendar year, such percentage of its payroll during such year as the commissioner shall determine.

(iii) At the end of each taxable year, the commissioner may modify the quarterly percentage of payroll thereafter payable by the nonprofit organization in order to minimize excess or insufficient payments.

(iv) At the end of each taxable year, the commissioner shall determine whether the total of payments for such year made by a nonprofit organization is less than, or in excess of, the total amount of regular and additional benefits plus one-half of the amount of extended benefits paid to individuals during such taxable year based on wages attributable to service in the employ of such organization. Each nonprofit organization whose total payments for such year are less than the amount so determined shall be liable for payment of the unpaid balance to the fund in accordance with (c) of this subsection. If the total payments exceed the amount so determined for the taxable year, all of the excess payments will be retained in the fund as part of the payments which may be required for the next taxable year, or a part of the excess may, at the discretion of the commissioner, be refunded from the fund or retained in the fund as part of the payments which may be required for the next taxable year.

(c) Payment of any bill rendered under (a) or (b) of this subsection shall be made not later than thirty days after such bill was mailed to the last known address of the nonprofit organization or was otherwise delivered to it, and if not paid within such thirty days, the reimbursement payments itemized in the bill shall be deemed to be delinquent and the whole or part thereof remaining unpaid shall bear interest and penalties from and after the end of such thirty days at the rate and in the manner set forth in RCW 50.12.220 and 50.24.040.

(d) Payments made by any nonprofit organization under the provisions of this section shall not be deducted or deductible, in whole or in part, from the remuneration of individuals in the employ of the organization. Any deduction in violation of the provisions of this paragraph shall be unlawful.

(3) Each employer that is liable for payments in lieu of contributions shall pay to the commissioner for the fund the total amount of regular and additional benefits plus the amount of one-half of extended benefits paid that are attributable to service in the employ of such employer. If benefits paid to an individual are based on wages paid by more than one employer and one or more of such employers are liable

for payments in lieu of contributions, the amount payable to the fund by each employer that is liable for such payments shall be determined in accordance with the provisions of (a) and (b) of this subsection.

(a) If benefits paid to an individual are based on wages paid by one or more employers that are liable for payments in lieu of contributions and on wages paid by one or more employers who are liable for contributions, the amount of benefits payable by each employer that is liable for payments in lieu of contributions shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his or her base-period employers.

(b) If benefits paid to an individual are based on wages paid by two or more employers that are liable for payments in lieu of contributions, the amount of benefits payable by each such employer shall be an amount which bears the same ratio to the total benefits paid to the individual as the total base-period wages paid to the individual by such employer bear to the total base-period wages paid to the individual by all of his or her base-period employers. [2010 c 8 § 13043; 1990 c 245 § 9; 1983 1st ex.s. c 23 § 24; 1977 ex.s. c 292 § 19; 1971 c 3 § 23.]

Additional notes found at www.leg.wa.gov

50.44.070 Election to make payments in lieu of contributions—Bond or deposit. In the discretion of the commissioner, any nonprofit organization that elects to become liable for payments in lieu of contributions shall be required within thirty days after the effective date of its election, to execute and file with the commissioner a surety bond approved by the commissioner or it may elect instead to deposit with the commissioner money or securities. The amount of such bond or deposit shall be determined in accordance with the provisions of this section.

(1) The amount of the bond or deposit required by this subsection shall be an amount deemed by the commissioner to be sufficient to cover any reimbursement payments which may be required from the employer attributable to employment during any year for which the election is in effect but in no event shall such amount be in excess of the amount which said employer would pay for such year if he or she were subject to the contribution provisions of this title. The determination made pursuant to this subsection shall be based on payroll information, employment experience, and such other factors as the commissioner deems pertinent.

(2) Any bond deposited under this section shall be in force for a period of not less than two taxable years and shall be renewed with the approval of the commissioner, at such times as the commissioner may prescribe, but not less frequently than at two-year intervals as long as the organization continues to be liable for payments in lieu of contributions. The commissioner shall require adjustments to be made in a previously filed bond as he or she deems appropriate. If the bond is to be increased, the adjusted bond shall be filed by the organization within thirty days of the date notice of the required adjustment was mailed or otherwise delivered to it. Failure by any organization covered by such bond to pay the full amount of payments in lieu of contributions when due, together with any applicable interest and penalties provided

for in this title, shall render the surety liable on said bond to the extent of the bond, as though the surety was such organization.

(3) Any deposit of money or securities in accordance with this section shall be retained by the commissioner in an escrow account until liability under the election is terminated, at which time it shall be returned to the organization, less any deductions as hereinafter provided. The commissioner may deduct from the money deposited under this section by a nonprofit organization or sell the securities it has so deposited to the extent necessary to satisfy any due and unpaid payments in lieu of contributions and any applicable interest and penalties provided for in this act. The commissioner shall require the organization within thirty days following any deduction from a money deposit or sale of deposited securities under the provisions of this subsection to deposit sufficient additional money or securities to make whole the organization's deposit at the prior level. Any cash remaining from the sale of such securities shall be a part of the organization's escrow account. The commissioner may, at any time review the adequacy of the deposit made by any organization. If, as a result of such review, he or she determines that an adjustment is necessary he or she shall require the organization to make an additional deposit within thirty days of written notice of his or her determination or shall return to it such portion of the deposit as he or she no longer considers necessary, whichever action is appropriate. Disposition of income from securities held in escrow shall be governed by the applicable provisions of the state law.

(4) If any nonprofit organization fails to file a bond or make a deposit, or to file a bond in an increased amount or to increase or make whole the amount of a previously made deposit, as provided under this section, the commissioner may terminate such organization's election to make payments in lieu of contributions and such termination shall continue for not less than the four-consecutive-calendar-quarter period beginning with the quarter in which termination becomes effective: PROVIDED, That the commissioner may extend for good cause the applicable filing, deposit, or adjustment period by not more than thirty days. [2010 c 8 § 13044; 1973 c 73 § 11; 1971 c 3 § 24.]

Additional notes found at www.leg.wa.gov

50.44.080 Construction—Compliance with federal unemployment tax act, department of labor guidelines. In view of the importance of compliance of this chapter with the federal unemployment tax act, any ambiguities contained herein should be resolved in a manner consistent with the provisions of that act. Department of labor guidelines implementing chapter 99, Laws of 2001 should be referred to when interpreting the provisions of this chapter.

Language in this chapter concerning the extension of coverage to employers entitled to make payments in lieu of contributions should, in a manner consistent with the foregoing paragraph, be construed so as to have a minimum financial impact on the employers subject to the experience rating provisions of this title. [2001 c 99 § 3; 1971 c 3 § 25.]

Additional notes found at www.leg.wa.gov

50.44.090 Construction—Mandatory coverage of employees of political subdivision under 1977 ex.s. c 292.

(1) The provisions of chapter 292, Laws of 1977 ex. sess. mandating coverage of employees of political subdivisions have been enacted to comply with the provisions of Public Law 94-566. Therefore, as provided in subsection (2), this mandatory feature shall be contingent on the existence of valid and constitutional federal law requiring the Secretary of Labor to refuse to certify as approved the employment security laws of this state if such laws did not continue such mandatory coverage.

(2) In the event the mandatory coverage feature for political subdivisions ceases to be necessary for compliance with valid and constitutional federal law, then the mandatory feature of chapter 292, Laws of 1977 ex. sess. shall cease to be effective as of the end of the next quarter following the quarter in which the mandatory feature contained in chapter 292, Laws of 1977 ex. sess. is not necessary for such compliance.

(3) In the event mandatory coverage ceases to be effective pursuant to subsection (2), then the sections, or subsections as the case may be, of chapter 292, Laws of 1977 ex. sess. shall to the extent that they apply to coverage of employees of political subdivisions be deemed nullified and the language of the sections being amended shall be deemed reinstated as the laws of this state.

(4) Benefits paid based on the services covered during the effective life of the mandatory coverage feature shall be financed as follows:

(a) If the political subdivision was financing payment of benefits on a reimbursable basis, benefits attributable to employment with the political subdivision shall be assessed to and paid by the political subdivision;

(b) If the political subdivision is a county, city, or town which elected financing pursuant to RCW 50.44.035, such political subdivision will pay "the local government tax" for all earnings by employees through the end of the calendar quarter in which the mandatory coverage is no longer effective pursuant to subsection (2);

(c) If the political subdivision was financing benefits by the contribution method it will pay contributions on wages earned by its employees through the end of the calendar quarter in which mandatory coverage is no longer effective pursuant to subsection (2). [1977 ex.s. c 292 § 23.]

Additional notes found at www.leg.wa.gov

**Chapter 50.50 RCW
INDIAN TRIBES**

Sections

50.50.010	Employment.
50.50.020	Benefits—Generally.
50.50.030	Contributions—Election of payments in lieu of contributions.
50.50.040	Option to make payments in lieu of contributions—Revocation—Reinstatement—Notices.
50.50.050	Notices—Contents.
50.50.060	Extended benefits—Financing by Indian tribe.
50.50.070	Indian tribes subject to same terms and conditions as other employers.
50.50.900	Conflict with federal requirements—2001 1st sp.s. c 11.
50.50.902	Effective date—2001 1st sp.s. c 11.
50.50.903	Retroactive application—2001 1st sp.s. c 11.

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50.50.010 Employment. The term "employment" includes service performed in the employ of an Indian tribe, as defined in section 3306(u) of the federal unemployment tax act, provided such service is excluded from "employment" as defined in the federal unemployment tax act solely by reason of section 3306(c)(7), the federal unemployment tax act, and is not otherwise excluded from "employment" under this title. For purposes of this section, the exclusions from employment in RCW 50.44.040, except *RCW 50.44.040(12) addressing nongovernmental preschools, are applicable to services performed in the employ of an Indian tribe. [2001 1st sp.s. c 11 § 3.]

*Reviser's note: RCW 50.44.040 was amended by 2007 c 386 § 1, changing subsection (12) to subsection (9).

50.50.020 Benefits—Generally. Benefits based on service in employment defined in this chapter are payable in the same amount, on the same terms, and subject to the same conditions as benefits payable on the basis of other service under this title. [2001 1st sp.s. c 11 § 4.]

50.50.030 Contributions—Election of payments in lieu of contributions. (1) Indian tribes or tribal units, including subdivisions, subsidiaries, or business enterprises wholly owned by such Indian tribes, subject to this title shall pay contributions under the same terms and conditions as all other subject employers, unless they elect to pay into the unemployment compensation fund amounts equal to the amount of benefits attributable to service in the employ of the Indian tribe.

(2) Indian tribes electing to make payments in lieu of contributions shall make such election in the same manner and under the same conditions as provided in RCW 50.44.030 pertaining to other units of government subject to this title. Indian tribes shall determine if reimbursement for benefits paid are to be elected by the tribe as a whole, by individual tribal units, or by combinations of tribal units.

(3) Indian tribes or tribal units shall be billed for the full amount of benefits attributable to service in the employ of the Indian tribe or tribal unit on the same schedule as other employing units that have elected to make payments in lieu of contributions.

(4) At the discretion of the commissioner and on the same basis as other employers with the same election option, any Indian tribe or tribal unit that elects to become liable for payments in lieu of contributions is required, within thirty days after the effective date of its election, to: (a) Execute and file with the commissioner a surety bond approved by the commissioner; or (b) deposit with the commissioner money or securities in an amount determined by the commissioner. [2001 1st sp.s. c 11 § 5.]

50.50.040 Option to make payments in lieu of contributions—Revocation—Reinstatement—Notices. (1)(a) The commissioner shall revoke the option for an Indian tribe or tribal unit to make payments in lieu of contributions as described in RCW 50.50.030 if the Indian tribe or tribal unit: (i) Did not make payments, including assessments of interest and penalties, required under this chapter within ninety days of receipt of statement; or (ii) entered into an approved agency deferred payment contract, and was not in compliance

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with the contract on the cutoff date, as authorized in chapter 50.29 RCW. The revocation shall begin on January 1 of the first calendar year after the Indian tribe or tribal unit meets these conditions, and shall continue until the option is reinstated as described in (b) of this subsection.

(b) The commissioner shall reinstate the option if, as of the cutoff date, an Indian tribe or tribal unit whose option was revoked as described in (a) of this subsection: (i) Paid contributions owed in the current calendar year when due; and (ii) made required payments, including assessments of interest and penalties, for any preceding calendar years. The reinstatement shall begin on January 1 of the first calendar year after the Indian tribe or tribal unit satisfies these conditions.

(2)(a) Services performed for an Indian tribe or tribal unit are not services in "employment" for purposes of RCW 50.04.265 and 50.50.010 if:

(i) The Indian tribe or tribal unit elected to make payments in lieu of contributions, had the option revoked, and has not met the conditions for reinstatement of the option; and

(ii) The Indian tribe or tribal unit either: (A) Did not make required payments, including assessments of interest and penalties, within one hundred eighty days of receipt of statement; or (B) entered into an approved agency deferred payment contract, and was not in compliance with the contract on the last day of the current calendar quarter.

This revocation of coverage shall begin on the first day of the first calendar quarter after the Indian tribe or tribal unit meets these conditions, and shall continue until coverage is reinstated as described in (c) of this subsection.

(b) Services performed for an Indian tribe or tribal unit are not services in "employment" for purposes of RCW 50.04.265 and 50.50.010 if:

(i) The Indian tribe or tribal unit is a contribution-paying employer; and

(ii) The Indian tribe or tribal unit either: (A) Did not make required payments, including assessments of interest and penalties, within one hundred eighty days of receipt of statement; or (B) entered into an approved agency deferred payment contract, and was not in compliance with the contract on the last day of the current calendar quarter.

This revocation of coverage shall begin on the first day of the first calendar quarter after the Indian tribe or tribal unit meets these conditions, and shall continue until coverage is reinstated as described in (c) of this subsection.

(c) The commissioner may reinstate coverage if the Indian tribe or tribal unit has made required payments, including assessments of interest and penalties. This reinstatement of coverage may begin on the first day of the first calendar quarter after these payments are made.

(3)(a) The commissioner shall immediately notify the United States internal revenue service and the United States department of labor if an Indian tribe or tribal unit does not make required payments, including assessments of interest and penalties, within ninety days of receipt of statement.

(b) The commissioner shall immediately notify the United States internal revenue service and the United States department of labor of any revocation or reinstatement of the option to make payments in lieu of contributions under subsection (1) of this section or any revocation or reinstatement

of coverage under subsection (2) of this section. [2001 1st sp.s. c 11 § 6.]

50.50.050 Notices—Contents. Notices of payment and reporting delinquency to Indian tribes or their tribal units must include information that failure to make full payment within the prescribed time frames: (1) Causes the Indian tribe to be liable for taxes under the federal unemployment tax act; (2) causes the Indian tribe to lose the option to make payments in lieu of contributions; and (3) causes the Indian tribe to be excepted from the definition of "employing unit," as provided in RCW 50.04.090, and services in the employ of the Indian tribe, as provided in RCW 50.04.265 and 50.50.010, to be excepted from "employment." [2001 1st sp.s. c 11 § 7.]

50.50.060 Extended benefits—Financing by Indian tribe. Extended benefits paid that are attributable to service in the employ of an Indian tribe and not reimbursed by the federal government must be financed in their entirety by such Indian tribe. [2001 1st sp.s. c 11 § 8.]

50.50.070 Indian tribes subject to same terms and conditions as other employers. Unless specifically addressed in this chapter, Indian tribes or their tribal units are subject to the same terms and conditions as are other employers subject to contributions under RCW 50.29.020 or other units of government under RCW 50.44.030 that make payments in lieu of contributions. [2001 1st sp.s. c 11 § 9.]

50.50.900 Conflict with federal requirements—2001 1st sp.s. c 11. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state. [2001 1st sp.s. c 11 § 10.]

50.50.902 Effective date—2001 1st sp.s. c 11. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [June 11, 2001]. [2001 1st sp.s. c 11 § 12.]

50.50.903 Retroactive application—2001 1st sp.s. c 11. This act applies retroactively to services performed on or after December 21, 2000. Indian tribes or tribal units may elect to make payments in lieu of contributions effective December 21, 2000, or a subsequent date. [2001 1st sp.s. c 11 § 13.]

Chapter 50.60 RCW
SHARED WORK COMPENSATION PLANS—
BENEFITS

Sections

50.60.010	Legislative intent.
50.60.020	Definitions.
50.60.030	Compensation plan—Criteria for approval.
50.60.040	Compensation plan—Approval or rejection—Resubmission.
50.60.050	Approved plan—Misrepresentation—Penalties.
50.60.060	Approved plan—Effective date—Expiration.
50.60.070	Approved plan—Revocation—Review of plans.
50.60.080	Approved plan—Modification.
50.60.090	Shared work benefits—Eligibility.
50.60.100	Benefits—Weekly amount—Maximum entitlement— Claims—Conditions.
50.60.110	Benefits—Charge to employers' experience rating accounts.
50.60.120	Benefits—Exhaustee.
50.60.900	Title and rules to apply to shared work benefits—Conflict with federal requirements.
50.60.901	Rules.

50.60.010 Legislative intent. In order to provide an economic climate conducive to the retention of skilled workers in industries adversely affected by general economic downturns and to supplement depressed buying power of employees affected by such downturns, the legislature finds that the public interest would be served by the enactment of laws providing greater flexibility in the payment of unemployment compensation benefits in situations where qualified employers elect to retain employees at reduced hours rather than instituting layoffs. [1983 c 207 § 1.]

50.60.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Affected employee" means a specified employee, hired on a permanent basis, to which an approved shared work compensation plan applies.

(2) "Employers' association" means an association which is a party to a collective bargaining agreement under which there is a shared work compensation plan.

(3) "Shared work benefits" means the benefits payable to an affected employee under an approved shared work compensation plan as distinguished from the benefits otherwise payable under this title.

(4) "Shared work compensation plan" means a plan of an employer, or of an employers' association, under which there is a reduction in the number of hours worked by employees rather than layoffs.

(5) "Shared work employer" means an employer, who has at least two employees, and at least one employee is covered by a shared work compensation plan.

(6) "Unemployment compensation" means the benefits payable under this title other than shared work benefits and includes any amounts payable pursuant to an agreement under federal law providing for compensation, assistance, or allowances with respect to unemployment.

(7) "Usual weekly hours of work" means the regular number of hours of work before the hours were reduced, not to exceed forty hours and not including overtime. [2013 c 79 § 1. Prior: 2009 c 3 § 7; 1983 c 207 § 2.]

Conflict with federal requirements—2013 c 79: "If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting

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part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the state or the granting of federal unemployment tax credits to employers in this state." [2013 c 79 § 5.]

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.60.030 Compensation plan—Criteria for approval. An employer or employers' association wishing to participate in a shared work compensation program shall submit a written and signed shared work compensation plan to the commissioner for approval. The commissioner shall approve a shared work compensation plan only if the following criteria are met:

(1) The plan identifies the affected employees to which it applies;

(2) Each affected employee is identified by name, social security number, and by any other information required by the commissioner;

(3) The usual weekly hours of work for each affected employee are reduced by not less than ten percent and not more than fifty percent;

(4) The employer certifies health benefits will continue to be provided under the same terms and conditions as when the affected employee worked his or her usual weekly hours of work. Affected employees must be allowed to maintain coverage under the same terms and conditions as employees not participating in the shared work compensation plan. However, a change in health benefits applicable to employees who are not participating in the shared work compensation plan may also apply to affected employees;

(5) The employer certifies retirement benefits under a defined benefit plan or contributions under a defined contribution plan will continue to be provided under the same terms and conditions as when the affected employee worked his or her usual weekly hours of work. Affected employees must be allowed to maintain coverage in the retirement plan under the same terms and conditions as employees not participating in the shared work compensation plan. However, a reduction in benefits under a defined benefit plan or a reduction in contributions under a defined contribution plan applicable to employees who are not participating in the shared work compensation plan may also apply to affected employees;

(6) The employer certifies paid vacation, holidays, and sick leave continue to be provided under the same terms and conditions as when the affected employee worked his or her usual weekly hours of work. Affected employees must be allowed to maintain these benefits under the same terms and conditions as employees not participating in the shared work compensation plan. However, a reduction in these benefits applicable to employees who are not participating in the shared work compensation plan may also apply to affected employees;

(7) The plan certifies that the aggregate reduction in work hours for each affected employee is in lieu of layoffs which would have resulted in an equivalent reduction in work hours;

(8) The plan is approved in writing by the collective bargaining agent for each collective bargaining agreement covering any affected employee;

(9) The plan will not subsidize seasonal employers during the off season;

(10) The employer agrees to furnish reports necessary for the proper administration of the plan and to permit access by the commissioner to all records necessary to verify the plan before approval and after approval to evaluate the application of the plan;

(11) The plan includes an estimate of the number of layoffs that would have occurred absent the ability to participate in shared work;

(12) The shared work compensation plan includes a plan to give advance notice, when feasible, to an employee whose usual weekly hours of work will be reduced. If not feasible, the shared work compensation plan must explain why it is not feasible; and

(13) The employer must attest that participation is consistent with employer obligations under federal and state law.

In addition to subsections (1) through (13) of this section, the commissioner shall take into account any other factors which may be pertinent. [2013 c 79 § 2; 2009 c 3 § 8; 1985 c 43 § 1; 1983 c 207 § 3.]

Conflict with federal requirements—2013 c 79: See note following RCW 50.60.020.

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

Additional notes found at www.leg.wa.gov

50.60.040 Compensation plan—Approval or rejection—Resubmission. The commissioner shall approve or reject a shared work compensation plan in writing within fifteen days of its receipt. The reasons for the rejection shall be final and nonappealable, but the rejection shall not prevent an employer from submitting another plan for approval not earlier than fifteen days after the date of a previous written rejection. [1983 c 207 § 4.]

50.60.050 Approved plan—Misrepresentation—Penalties. If an approved plan or any representation for implementation of the plan is intentionally and substantially misleading or false, any individual who participated in any such misrepresentation shall be subject to criminal prosecution as well as personal liability for any amount of benefits deemed by the commissioner to have been improperly paid from the fund as a result thereof. This provision for personal liability is in addition to any remedy against individual claimants for collection of overpayment of benefits if such claimants participated in or were otherwise at fault in the overpayment. [1983 c 207 § 5.]

50.60.060 Approved plan—Effective date—Expiration. A shared work compensation plan shall be effective on the date agreed upon by the department and the employer but no later than the first day of the second calendar week after the date of the commissioner's approval, unless a later date is requested by the employer. The plan shall expire at the end of the twelfth full calendar month after its effective date, or on the date specified in the plan if that date is earlier, unless the plan is revoked before that date by the commissioner. If a plan is revoked by the commissioner, it shall terminate on the date specified in the commissioner's order of revocation. [2009 c 3 § 9; 1983 c 207 § 6.]

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Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.60.070 Approved plan—Revocation—Review of plans. The commissioner may revoke approval of a shared work compensation plan for good cause. The revocation order shall be in writing and shall specify the date the revocation is effective and the reasons for the revocation. Good cause for revocation shall include failure to comply with the assurances given in the plan, unreasonable revision of productivity standards, conduct or occurrences tending to defeat the intent and effective operation of the plan, and violation of the criteria on which approval of the plan was based.

Such action may be initiated at any time by the commissioner on his or her own motion, on the motion of any of the affected employees, or on the motion of the appropriate collective bargaining agents. The commissioner shall review each plan at least once within the twelve-month period the plan is in effect to assure that it continues to meet the requirements of this chapter. [2009 c 3 § 10; 1983 c 207 § 7.]

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.60.080 Approved plan—Modification. An approved shared work compensation plan in effect may be modified with the approval of the commissioner. If the hours of work are increased or decreased beyond the level in the original plan, or any other condition is changed, the employer shall promptly notify the commissioner. If the changes meet the requirements for approval of a plan, the commissioner shall approve the modifications. This approval shall not change the expiration date of the original plan. If the modifications do not meet the requirements for approval, the commissioner shall revoke the plan as specified in RCW 50.60.060. [1983 c 207 § 8.]

50.60.090 Shared work benefits—Eligibility. An individual is eligible to receive shared work benefits with respect to any week only if, in addition to meeting the conditions of eligibility for other benefits under this title, the commissioner finds that:

(1) The individual was employed during that week as an affected employee under an approved shared work compensation plan which was in effect for that week;

(2) The affected employee was able to work and was available for his or her usual weekly hours of work with the shared work employer; and

(3) Notwithstanding any other provision of this chapter, an individual is deemed to have been unemployed in any week for which remuneration is payable to him or her as an affected employee for less than his or her normal weekly hours of work as specified under the approved shared work compensation plan in effect for that week. [2013 c 79 § 3; 2009 c 3 § 11; 1983 c 207 § 9.]

Conflict with federal requirements—2013 c 79: See note following RCW 50.60.020.

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.60.100 Benefits—Weekly amount—Maximum entitlement—Claims—Conditions. (1) The shared work weekly benefit amount shall be the product of the regular

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weekly unemployment compensation benefit amount multiplied by the percentage of reduction in the individual's usual weekly hours of work;

(2) No individual is eligible in any benefit year for more than the maximum entitlement established for benefits under this title, including benefits under this chapter;

(3) The shared work benefits paid an individual shall be deducted from the total benefit amount established for that individual's benefit year;

(4) Claims for shared work benefits shall be filed in the same manner as claims for other benefits under this title or as prescribed by the commissioner by rule;

(5) Provisions otherwise applicable to unemployment compensation claimants under this title apply to shared work claimants to the extent that they are not inconsistent with this chapter;

(6)(a) If an individual works in the same week for an employer other than the shared work employer and his or her combined hours of work for both employers are equal to or greater than the usual weekly hours of work with the shared work employer, the individual shall not be entitled to benefits under this chapter or title;

(b) If an individual works in the same week for both the shared work employer and another employer and his or her combined hours of work for both employers are less than his or her usual weekly hours of work, the benefit amount payable for that week shall be the weekly unemployment compensation benefit amount reduced by the same percentage that the combined hours are of the usual weekly hours of work;

(7) An individual who does not work during a week for the shared work employer, and is otherwise eligible, shall be paid his or her full weekly unemployment compensation benefit amount;

(8) An individual who does not work for the shared work employer during a week but works for another employer, and is otherwise eligible, shall be paid benefits for that week under the partial unemployment compensation provisions of this title. [2009 c 3 § 12; 1983 c 207 § 10.]

Short title—Effective date—Conflict with federal requirements—2009 c 3: See notes following RCW 50.20.120.

50.60.110 Benefits—Charge to employers' experience rating accounts. (1) Except as provided in subsection (2) of this section, shared work benefits shall be charged to employers' experience rating accounts in the same manner as other benefits under this title are charged. Employers liable for payments in lieu of contributions shall have shared work benefits attributed to their accounts in the same manner as other benefits under this title are attributed.

(2) For weeks of benefits paid between July 1, 2012, and June 28, 2015, any amount of shared work benefits reimbursed by the federal government is not charged to experience rating accounts of employers or to employers who are liable for payments in lieu of contributions. The department shall remove charges for any amount of shared work benefits reimbursed by the federal government between July 1, 2012, and the week prior to July 28, 2013. [2013 c 79 § 4; 1983 c 207 § 11.]

Conflict with federal requirements—2013 c 79: See note following RCW 50.60.020.

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50.60.120 Benefits—Exhaustee. An individual who has received all of the shared work benefits, or all of the combined unemployment compensation and shared work benefits, available in a benefit year shall be considered an exhaustee for purposes of the extended benefits program under chapter 50.22 RCW, and, if otherwise eligible under that chapter, shall be eligible to receive extended benefits. [1983 c 207 § 12.]

50.60.900 Title and rules to apply to shared work benefits—Conflict with federal requirements. Unless inconsistent with or otherwise provided by this section, this title and rules adopted under this title apply to shared work benefits. To the extent permitted by federal law, those rules may make such distinctions and requirements as may be necessary with respect to unemployed individuals to carry out the purposes of this chapter, including rules defining usual hours, days, workweek, wages, and the duration of plans adopted under this chapter. To the extent that any portion of this chapter may be inconsistent with the requirements of federal law relating to the payment of unemployment insurance benefits, the conflicting provisions or interpretations of this chapter shall be deemed inoperative, but only to the extent of the conflict. If the commissioner determines that such a conflict exists, a statement to that effect shall be filed with the governor's office for transmission to both houses of the legislature. [1983 c 207 § 13.]

50.60.901 Rules. The department shall adopt such rules as are necessary to carry out the purposes of chapter 207, Laws of 1983. [1998 c 245 § 101; 1983 c 207 § 14.]

Chapter 50.62 RCW

SPECIAL EMPLOYMENT ASSISTANCE

Sections

50.62.010	Legislative findings.
50.62.020	Definitions.
50.62.030	Job service program or activity—Enrollment in self-employment assistance or entrepreneurial training programs.
50.62.040	Annual report—Wage and benefit history.

50.62.010 Legislative findings. The legislature finds and declares that:

(1) The number of persons unemployed in the state is significantly above the national average.

(2) Persons who are unemployed represent a skilled resource to the economy and the quality of life for all persons in the state.

(3) There are jobs available in the state that can be filled by unemployed persons.

(4) A public labor exchange can appreciably expedite the employment of unemployed job seekers and filling employer vacancies thereby contributing to the overall health of the state and national economies.

(5) The Washington state job service of the employment security department has provided a proven service of assisting persons to find employment for the past fifty years.

(6) Expediting the reemployment of unemployment insurance claimants will reduce payment of claims drawn from the state unemployment insurance trust fund.

(7) Increased emphasis on assisting in the reemployment of claimants and monitoring claimants' work search efforts will positively impact employer tax rates resulting from the recently enacted experience rating legislation, chapter 205, Laws of 1984.

(8) Special employment service efforts are necessary to adequately serve agricultural employers who have unique needs in the type of workers, recruitment efforts, and the urgency of obtaining sufficient workers.

(9) Study and research of issues related to employment and unemployment provides economic information vital to the decision-making process.

(10) Older workers and the long-term unemployed experience greater difficulty finding new employment at wages comparable to their prelayoff earnings relative to all unemployment insurance claimants who return to work.

(11) After a layoff, older unemployed workers and the long-term unemployed workers fail to find unemployment insurance-covered employment at a much higher rate than other groups of unemployment insurance claimants.

The legislature finds it necessary and in the public interest to have a program of job service to assist persons drawing unemployment insurance claims to find employment, to provide employment assistance to the agricultural industry, and to conduct research into issues related to employment and unemployment. [1987 c 284 § 1; 1987 c 171 § 1; 1985 ex.s. c 5 § 1.]

Reviser's note: This section was amended by 1987 c 171 § 1 and by 1987 c 284 § 1, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Additional notes found at www.leg.wa.gov

50.62.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Job service" means the employment assistance program of the employment security department;

(2) "Employment assistance" means services to unemployed persons focused on and measured by the obtaining of employment;

(3) "Labor exchange" means those activities which match labor supply and labor demand, including recruitment, screening, and referral of qualified workers to employers;

(4) "Special account of the administrative contingency fund" means that fund under RCW 50.24.014 established within the administrative contingency fund of the employment security department which provides revenue for the purposes of this chapter.

(5) "Continuous wage and benefit history" means an information and research system utilizing a longitudinal database containing information on both employment and unemployment.

(6) "Long-term unemployed" means demographic groups of unemployment insurance claimants identified by the employment security department pursuant to RCW 50.62.040(1)(e) which have the highest percentages of persons who have drawn at least fifteen weeks of unemployment insurance benefits or have the highest percentage of persons who have exhausted their unemployment insurance benefits.

(7) "Older unemployed workers" means unemployment insurance claimants who are at least fifty years of age. [1987 c 284 § 2; 1985 ex.s. c 5 § 2.]

Additional notes found at www.leg.wa.gov

50.62.030 Job service program or activity—Enrollment in self-employment assistance or entrepreneurial training programs. (1) Job service resources must be used to assist with the reemployment of unemployed workers using the most efficient and effective means of service delivery. The job service program of the employment security department may undertake any program or activity for which funds are available and which furthers the goals of this chapter. These programs and activities must include, but are not limited to:

(a) Giving older unemployed workers and the long-term unemployed the highest priority for all services made available under this section. The employment security department must make the services provided under this chapter available to the older unemployed workers and the long-term unemployed as soon as they register under the employment assistance program;

(b) Supplementing basic employment services, with special job search and claimant placement assistance designed to assist unemployment insurance claimants to obtain employment;

(c) Providing employment services, such as recruitment, screening, and referral of qualified workers, to agricultural areas where these services have in the past contributed to positive economic conditions for the agricultural industry; and

(d) Providing otherwise unobtainable information and analysis to the legislature and program managers about issues related to employment and unemployment.

(2) Individuals who are eligible for services under the federal workforce innovation and opportunity act, P.L. 113-128 or its successor, must be provided the opportunity to enroll in self-employment assistance or entrepreneurial training programs to prepare them for self-employment on the same basis as they are provided the opportunity to enroll in other training programs funded under the federal workforce innovation and opportunity act. The department must work with local workforce development councils to ensure that the contracting process with training providers is efficient and that the number of entrepreneurial training providers on the state's eligible training provider list is sufficient to meet demand. Each local workforce development council must:

(a) Notify all individuals eligible for services under the workforce innovation and opportunity act of the availability of self-employment assistance and entrepreneurial training; and

(b) Establish and implement a plan for expending workforce innovation and opportunity act funds on self-employment assistance and entrepreneurial training at a rate that is commensurate with either the demand for such services or the rate of self-employment within the council's workforce development area. [2017 c 39 § 10; 2012 c 40 § 4; 1995 c 135 § 4. Prior: 1987 c 284 § 3; 1987 c 171 § 2; 1985 ex.s. c 5 § 3.]

Intent—1995 c 135: See note following RCW 29A.08.760.

Additional notes found at www.leg.wa.gov

50.62.040 Annual report—Wage and benefit history.

(1) Each year the employment security department may publish an annual report on the unemployed based on research conducted on the continuous wage and benefit history and other sources that identifies:

(a) The demographic groups of unemployment insurance claimants that experience the greatest difficulty finding new employment with wages comparable to their prelayoff earnings;

(b) The demographic groups of unemployment insurance claimants that have the highest rates of failure to find unemployment insurance covered-employment after a layoff;

(c) The demographic, industry, and employment characteristics of the unemployment insurance claimant population most closely associated with the exhaustion of an unemployment claim;

(d) The demographic, industry, and employment characteristics of those locked-out workers who are eligible for unemployment compensation under RCW 50.20.090; and

(e) The demographic groups which are defined as the "long-term unemployed" for purposes of this chapter. This listing shall be updated each year.

(2) The employment security department shall continue to fund the continuing wage and benefit history at a level necessary to produce the annual report described in subsection (1) of this section. [1998 c 245 § 102; 1987 c 284 § 4.]

Chapter 50.65 RCW**WASHINGTON SERVICE CORPS**

Sections

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50.65.330	Washington serves—Gifts, grants, endowments—Matching funds.
50.65.901	Conflict with federal requirements—1983 1st ex.s. c 50.
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50.65.906	Conflict with federal requirements—1993 sp.s. c 7.
50.65.907	Short title—1993 sp.s. c 7.

Washington conservation corps: Chapter 43.220 RCW.

50.65.010 Legislative findings. The legislature finds that:

(1) The unemployment rate in the state of Washington is the highest since the great depression, with a significantly higher rate among Washington youth.

(2) The policy of the state is to conserve and protect its natural and urban resources, scenic beauty, and historical and cultural sites.

(3) It is in the public interest to target employment projects to those activities which have the greatest benefit to the local economy.

(4) There are many unemployed young adults without hope or opportunities for entrance into the labor force who are unable to afford higher education and who create a serious strain on tax revenues in community services.

(5) The severe cutbacks in community and human services funding leave many local community service agencies without the resources to provide necessary services to those in need.

(6) The talent and energy of Washington's unemployed young adults are an untapped resource which should be challenged to meet the serious shortage in community services and promote and conserve the valuable resources of the state.

Therefore, the legislature finds it necessary and in the public interest to enact the Washington youth employment and conservation act. As part of this chapter, the Washington service corps is established as an operating program of the employment security department. The legislature desires to facilitate the potential of youth to obtain available job opportunities in both public and private agencies. [1987 c 167 § 1; 1983 1st ex.s. c 50 § 1.]

Reviser's note: Wherever the phrase "this act" occurred in RCW 50.65.010 through 50.65.130, it has been changed to "this chapter." "This act" [1983 1st ex.s. c 50] consists of this chapter and three uncodified sections.

50.65.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commissioner" means the commissioner of the employment security department.

(2) "Department" means the employment security department.

(3) "Enrollees" means those persons who have completed enrollment forms, completed a work agreement, and who have entered into the Washington service corps following the approval of the director of the supervising agency.

(4) "Corps" means the Washington service corps.

(5) "Work agreement" means the written agreement between the department, the enrollee and the supervising

agency under this chapter for a period of up to eighteen months.

(6) "Supervising agencies" means those private or public agencies which develop and implement full-time service projects in which enrollees agree to participate.

(7) "Matching funds" means funding that is provided to the employment security department by agencies or individuals as financial support for a portion of the stipend or wage and benefits paid to the enrollee.

(8) "Financial support" means any thing of value contributed by agencies or individuals to the department for a youth employment project which is reasonably calculated to support directly the development and expansion of a particular program under this chapter and which represents an addition to any financial support previously or customarily provided by the individual or agency. "Financial support" includes, but is not limited to funds, equipment, facilities, and training.

(9) "Director" means the individual who shall serve as the director of the exchange. [1987 c 167 § 2; 1983 1st ex.s. c 50 § 2.]

50.65.030 Washington service corps established—Commissioner's duties. The Washington service corps is established within the employment security department. The commissioner shall:

(1) Appoint a director and other personnel as necessary to carry out the purposes of this chapter;

(2) Coordinate youth employment and training efforts under the department's jurisdiction and cooperate with other agencies or departments providing youth services to ensure that funds appropriated for the purposes of this chapter will not be expended to duplicate existing services, but will increase the services of youth to the state;

(3) The employment security department is authorized to place subgrants with other federal, state, and local governmental agencies and private agencies to provide youth employment projects and to increase the numbers of youth employed;

(4) Determine appropriate financial support levels by private business, community groups, foundations, public agencies, and individuals which will provide matching funds for enrollees in service projects under work agreements. The matching funds requirement may be waived for public agencies or reduced for private agencies;

(5) Recruit enrollees who are residents of the state unemployed at the time of application and are at least eighteen years of age but have not reached their twenty-sixth birthday;

(6) Recruit supervising agencies to host the enrollees in full-time service activities which shall not exceed eleven months' duration;

(7) Assist supervising agencies in the development of scholarships and matching funds from private and public agencies, individuals, and foundations in order to support a portion of the enrollee's stipend and benefits;

(8) Develop general employment guidelines for placement of enrollees in supervising agencies to establish appropriate authority for hiring, firing, grievance procedures, and employment standards which are consistent with state and federal law;

(9) Match enrollees with appropriate public agencies and available service projects;

(10) Monitor enrollee activities for compliance with this chapter and compliance with work agreements;

(11) Assist enrollees in transition to employment upon termination from the programs, including such activities as orientation to the labor market, on-the-job training, and placement in the private sector;

(12) Establish a program for providing incentives to encourage successful completion of terms of enrollment in the service corps and the continuation of educational pursuits. Such incentives shall be in the form of educational assistance equivalent to two years of community or technical college tuition for eleven months of service. Educational assistance funding shall only be used for tuition, fees, and course-related books and supplies. Enrollees who receive educational assistance funding shall start using it within one year of their service completion and shall finish using it within four years of their service completion;

(13) Enter into agreements with the state's community and technical college system and other educational institutions or independent nonprofit agencies to provide special education in basic skills, including reading, writing, and mathematics for those participants who may benefit by participation in such classes. Participation is not mandatory but shall be strongly encouraged. [1993 c 302 § 1; 1987 c 167 § 3; 1983 1st ex.s. c 50 § 3.]

Additional notes found at www.leg.wa.gov

50.65.040 Washington service corps—Criteria for enrollment. The commissioner may select and enroll in the Washington service corps program any person who is at least eighteen years of age but has not reached their twenty-sixth birthday, is a resident of the state, and who is not for medical, legal, or psychological reasons incapable of service. Efforts shall be made to enroll youths who are economically, socially, physically, or educationally disadvantaged. The commissioner may prescribe such additional standards and procedures in consultation with supervising agencies as may be necessary in conformance with this chapter. In addition, the commissioner may select and enroll youth fourteen to seventeen years of age on special projects during the summer and at other times during the school year that may complement and support their school curriculum or that link and support service with learning. [1993 c 302 § 2; 1987 c 167 § 4; 1983 1st ex.s. c 50 § 4.]

Additional notes found at www.leg.wa.gov

50.65.050 Washington service corps—List of local youth employment opportunities. The commissioner shall use existing local offices of the employment security department or contract with independent, private nonprofit agencies in a local community to establish the Washington service corps program and to insure coverage of the program statewide. Each local office shall maintain a list of available youth employment opportunities in the jurisdiction covered by the local office and the appropriate forms or work agreements to enable the youths to apply for employment in private or public supervising agencies. [1987 c 167 § 5; 1983 1st ex.s. c 50 § 5.]

50.65.060 Washington service corps—Placement under work agreements. Placements in the Washington service corps shall be made in supervising agencies under work agreements as provided under this chapter and shall include those assignments which provide for addressing community needs and conservation problems and will assist the community in economic development efforts. Each work agreement shall:

(1) Demonstrate that the service project is appropriate for the enrollee's interests, skills, and abilities and that the project is designed to meet unmet community needs;

(2) Include a requirement of regular performance evaluation. This shall include clear work performance standards set by the supervising agency and procedures for identifying strengths, recommended improvement areas and conditions for probation or dismissal of the enrollee; and

(3) Include a commitment for partial financial support for the enrollee from private industry, public agencies, community groups, or foundations. The commissioner may establish additional standards for the development of placements for enrollees with supervising agencies and assure that the work agreements comply with those standards. This section shall not apply to conservation corps programs established by chapter 43.220 RCW.

Agencies of the state may use the Washington service corps for the purpose of employing youth qualifying under this chapter. [1993 c 302 § 3; 1987 c 167 § 6; 1983 1st ex.s. c 50 § 6.]

Additional notes found at www.leg.wa.gov

50.65.065 Work agreements—Requirements. For each enrollee, the work agreements, or combination of work agreements, developed under RCW 50.65.060 shall:

(1) Include a variety of experiences consisting of: Indoor activities; outdoor activities; and volunteer activities;

(2) Provide time for participation in a core training program common to all participants. [1993 c 302 § 4.]

Additional notes found at www.leg.wa.gov

50.65.070 Enrollees not to displace current workers. The assignment of enrollees shall not result in the displacement of currently employed workers, including partial displacement such as reduction in hours of nonovertime work, wages, or other employment benefits. Supervising agencies that participate in the program may not terminate, lay-off, or reduce the working hours of any employee for the purpose of utilizing an enrollee with funds available. In circumstances where substantial efficiencies or a public purpose may result, supervising agencies may utilize enrollees to carry out essential agency work or contractual functions without displacing current employees. [1983 1st ex.s. c 50 § 7.]

50.65.080 Commissioner to seek assistance for Washington service corps. The commissioner shall seek and may accept, on behalf of the Washington service corps, charitable donations of cash and other assistance including, but not limited to, equipment and materials if the donations are available for appropriate use for the purposes set forth in this chapter. [1993 c 302 § 6; 1983 1st ex.s. c 50 § 8.]

Additional notes found at www.leg.wa.gov

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50.65.090 Authority for income-generating projects—Disposition of income. The commissioner may enter into income-generating projects with public or private organizations to further the purposes of this chapter. Moneys received from contractual projects qualifying under this chapter shall be deposited in the state general fund. This section does not apply to conservation corps programs established by chapter 43.220 RCW. [1983 1st ex.s. c 50 § 9.]

50.65.100 Work agreements—Nondiscrimination. All parties entering into work agreements under this chapter shall agree that they will not discriminate in the providing of any service on the basis of race, creed, ethnic origin, sex, age, or political affiliation. [1983 1st ex.s. c 50 § 10.]

50.65.110 Enrollees—Training and subsistence allowance—Medical insurance and medical aid—Notice of coverage. The compensation received shall be considered a training and subsistence allowance. Comprehensive medical insurance, and medical aid shall be paid for the enrollees in the service corps by the commissioner in accordance with the standards and limitations of the appropriation provided for this chapter. The department shall give notice of coverage to the director of labor and industries after enrollment. The department shall not be deemed an employer of an enrollee for any other purpose.

Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, old age health and survivor's insurance, state retirement plans, and vacation leave do not apply to enrollees. [1987 c 167 § 7; 1985 c 230 § 6; 1983 1st ex.s. c 50 § 11.]

50.65.120 Exemption of enrollees from unemployment compensation coverage. The services of enrollees placed with supervising agencies described in chapter 50.44 RCW are exempt from unemployment compensation coverage under *RCW 50.44.040(5) and the enrollees shall be so advised by the department. [1983 1st ex.s. c 50 § 12.]

*Reviser's note: RCW 50.44.040 was amended by 2007 c 386 § 1, changing subsection (5) to subsection (4).

50.65.130 Federal and private sector funds and grants. In addition to any other power, duty, or function described by law or rule, the employment security department, through the program established under this chapter, may accept federal or private sector funds and grants and implement such programs relating to community services or employment programs and may enter into contracts respecting such funds or grants. The department may also use funds appropriated for the purposes of this chapter as matching funds for federal or private source funds to accomplish the purposes of this chapter. The Washington service corps shall be the sole recipient of federal funds for youth employment and conservation corps programs. [1987 c 167 § 8; 1983 1st ex.s. c 50 § 13.]

50.65.138 Use of funds for enrollees and projects in distressed areas—Service corps. Sixty percent of the general funds available to the service corps program shall be for

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enrollees from distressed areas and for projects in distressed areas. A distressed area shall mean:

(1) A county which has an unemployment rate which is twenty percent above the state average for the immediately preceding three years;

(2) A community which has experienced sudden and severe loss of employment; or

(3) An area within a county which area:

(a) Is composed of contiguous census tracts;

(b) Has a minimum population of five thousand persons;

(c) The median household income is at least thirty-five percent below the county's median household income, as determined from data collected for the preceding United States ten-year census; and

(d) Has an unemployment rate which is at least forty percent higher than the county's unemployment rate. For purposes of this definition, "families and unrelated individuals" has the same meaning that is ascribed to that term by the federal department of housing and urban development in its regulations authorizing action grants for economic development and neighborhood revitalization projects. [1987 c 167 § 10.]

50.65.143 Limitation on use of funds for administration—Service corps. (1) Not more than fifteen percent of the funds available for the service corps shall be expended for administrative costs. For the purposes of this chapter, "administrative costs" include, but are not limited to, program planning and evaluation, budget development and monitoring, personnel management, contract administration, administrative payroll, development of program reports, and administrative office space costs and utilities.

(2) The fifteen percent limitation does not include costs for any of the following: Program support activities such as direct supervision of enrollees and corpsmembers, counseling, education and job training, equipment, advisory board expenses, and extraordinary recruitment and placement procedures necessary to fill project positions.

(3) The total for all items included under subsection (1) of this section and excluded under subsection (2) of this section shall not: (a) Exceed thirty percent of the appropriated funds available during a fiscal biennium for the service and conservation corps programs; or (b) result in an average cost per enrollee or corpsmember from general funds exceeding seven thousand dollars in the 1987-89 biennium and in succeeding biennia as adjusted by inflation factors established by the office of financial management for state budgeting purposes. The test included in (a) and (b) of this subsection are in the alternative, and it is only required that one of the tests be satisfied. [1987 c 167 § 11.]

50.65.200 Washington serves—Findings—Declaration. The legislature finds that:

(1) Budget constraints are causing severe gaps and reductions in vital services to local communities and citizens. Some of these gaps in services can be filled by citizen volunteers through an organized program to recruit and place volunteers and to expand opportunities for volunteers to serve their communities;

(2) The federal government is proposing expansion of national services programs. These programs may require significant matching resources from states. State funds support-

ing the Washington serves program can serve as a required matching source to leverage additional federal national service resources;

(3) Washington state has, through the Washington service corps, successfully offered service opportunities and meaningful work experience to young adults between the ages of eighteen and twenty-five years;

(4) The need exists to expand full-time volunteer opportunities to citizens age twenty-one and over, to encourage senior citizens, college graduates, professional and technically skilled persons, and other adult citizens, to contribute their critical expertise, experience, labor, and commitment to meeting the needs of their communities;

(5) It is appropriate and in the public's interest for Washington state to create opportunities for citizens to engage in full-time, meaningful volunteer service in governmental or private nonprofit agencies, institutions, programs, or activities that address the social, economic, educational, civic, cultural, or environmental needs of local communities;

(6) Through volunteer service, citizens apply their skills and knowledge to the resolution of critical problems or meeting unmet needs, gain valuable experience, refine or develop new skills, and instill a sense of civic pride and commitment to their community;

(7) There is a need to coordinate state and federally funded volunteer service programs that provide living allowances and other benefits to volunteers to maximize the benefits to volunteers and the organizations in which they serve.

It is therefore the legislature's desire to expand full-time volunteer opportunities for citizens age twenty-one and over and to provide appropriate incentives to those who serve. Such a program should be implemented statewide and coordinated across programs. [1993 sp.s. c 7 § 1.]

50.65.210 Washington serves—Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Commissioner" means the commissioner of the employment security department.

(2) "*Council" means the Washington council on volunteerism and citizen service authorized by chapter 43.150 RCW.

(3) "Department" means the employment security department.

(4) "Volunteer" means a person at least twenty-one years of age who, upon application and acceptance into the program, is placed in a governmental or private, nonprofit organization to perform full-time service for the benefit of the community, and who receives a living allowance and other benefits as authorized under this chapter. [1993 sp.s. c 7 § 2.]

***Reviser's note:** RCW 43.150.060, which created the Washington state council on volunteerism and citizen service, was repealed by 1995 c 269 § 2302, effective July 1, 1995.

50.65.220 Washington serves—Program—Created—Procedure—Intent. There is hereby created within the employment security department a program for full-time community service that shall be known and referred to as the Washington serves program. The department shall recruit, train, place, and evaluate applicants to the program. The department may accept applications and enter into agree-

ments or contracts with any governmental or private non-profit organization appropriate for placement of volunteers under this program. The commissioner, after consultation with the council, may adopt rules as needed to carry out the intent and purposes of this program. It is the intent of the legislature that the commissioner coordinate this program with all volunteer service programs, whether funded with state or federal dollars, in order to maximize the benefits to volunteers and the communities served under the program. It is also the legislature's intent that to the extent that state funds are paid directly to persons that participate in the program, whether to reimburse, support, assist, or provide other direct payment, no volunteer may have such reimbursement, support, assistance, or other payment reduced or withheld for having served in the program. [1993 sp.s. c 7 § 3.]

50.65.230 Washington serves—Applicants—Eligibility. (1) Applicants to the Washington serves program shall be at least twenty-one years of age and a resident of Washington state.

(2) Applicants may apply to serve for a period of service of one year, except that volunteers may serve for periods of service of less than one year if it is determined by the commissioner, on an individual basis, that a period of service of less than one year is necessary to meet a critical scarce skill or necessary to enable a person or organization to participate in the program.

(3) Volunteers may reapply for periods of service totaling not more than two additional years.

(4) Applicants to the program shall be committed to providing full-time service to the community. [1993 sp.s. c 7 § 4.]

50.65.240 Washington serves—Disqualification for Washington service corps participation. No individual may participate in the Washington serves program created by chapter 7, Laws of 1993 sp. sess., if the person has previously participated for six months or longer in the Washington service corps within the last three years. [1993 c 302 § 10.]

Additional notes found at www.leg.wa.gov

50.65.250 Washington serves—Volunteers—Selection—Placement. (1) Program volunteers shall be selected from among qualified individuals submitting applications for full-time service at such time, in such form, and containing such information as may be necessary to evaluate the suitability of each individual for service, and available placements. The commissioner or the commissioner's designee shall review the application of each individual who applies in conformance with selection criteria established by the commissioner after consultation with the council, and who, on the basis of the information provided in the application, is determined to be suitable to serve as a volunteer under the Washington serves program.

(2) Within available funds, volunteers may be placed with any public or private nonprofit organization, program, or project that qualifies to accept program volunteers according to the rules and application procedures established by the commissioner. Work shall benefit the community or state at large and may include but is not limited to programs, projects, or activities that:

(a) Address the problems of jobless, homeless, hungry, illiterate, or functionally illiterate persons, and low-income youths;

(b) Provide support and a special focus on those project activities that address the needs of the unemployed and those in need of job training or retraining;

(c) Address significant health care problems, including services to homeless individuals and other low-income persons, especially children, through prevention and treatment;

(d) Meet the health, education, welfare, or related needs of low-income persons, particularly children and low-income minority communities;

(e) Provide care or rehabilitation services to the mentally ill, developmentally disabled, or other persons with disabilities;

(f) Address the educational and education-related needs of children, youth, families, and young adults within public educational institutions or related programs;

(g) Address alcohol and drug abuse prevention, education, and related activities; and

(h) Seek to enhance, improve, or restore the environment or that educate or advocate for a sustainable environment.

(3) Every reasonable effort shall be made to place participants in programs, projects, or activities of their choice if the agencies, programs, or activities are consistent with the intent and purposes of the Washington serves program, if there is mutual agreement between the agency, program, or activity and the volunteer, and if the volunteer's service is consistent with the intent and purpose of the program and would benefit the community or the state as a whole. [1993 sp.s. c 7 § 5.]

50.65.260 Washington serves—Volunteers—Support. (1) Volunteers accepted into the Washington serves program and placed in an approved agency, program, or activity, shall be provided a monthly subsistence allowance in an amount determined by the commissioner taking into consideration the allowance given to VISTA, Washington service corps, and other similar service programs. For those persons who qualify and are granted a deferment of federal student loan payments while serving in the program, the rate of compensation shall be equal to but not greater than the monthly subsistence allowance granted Volunteers In Service To America (VISTA) serving in this state, as determined by the national ACTION agency or its successor, in accordance with section 105(b)(2) of the Domestic Volunteer Service Act of 1973, P.L. 93-113, as amended.

(2) The commissioner or the commissioner's designee shall, within available funds, ensure that each volunteer has available support to enable the volunteer to perform the work to which the volunteer is assigned. Such support may include, but is not limited to, reimbursement for travel expenses, payment for education and training expenses, including preservice and on-the-job training necessary for the performance of duties, technical assistance, and other support deemed necessary and appropriate.

(3) At the end of each volunteer's period of service of not less than one year, each volunteer may receive a postservice stipend for each month of completed service in an amount determined by the commissioner. The postservice stipend for those persons who qualify and are granted a deferment of federal student loan payments while serving in this program

shall be an amount equal to but not greater than the amount or rate determined by the national ACTION agency or its successor, in accordance with section 105(b)(2) of the Domestic Volunteer Service Act of 1973, P.L. 93-113 as amended, for Volunteers In Service To America (VISTA), who are providing services in this state. Volunteers under the Washington serves program may accrue the stipend for each month of their service period of not less than one year, including any month during which they were in training. The commissioner or the commissioner's designee may, on an individual basis, make an exception to provide a stipend to a volunteer who has served less than one year.

(4) Stipends shall be payable to the volunteer only upon completion of the period of service. Under circumstances determined by the commissioner, the stipend may be paid on behalf of the volunteer to members of the volunteer's family or others designated by the volunteer. [1993 sp.s. c 7 § 6.]

50.65.270 Washington serves—Volunteers—Medical benefits—Benefit limits. Within available funds, medical aid coverage under chapter 51.36 RCW and medical insurance shall be provided to all volunteers under this program. The department shall give notice of medical aid coverage to the director of labor and industries upon acceptance of the volunteer into the program. The department shall not be deemed an employer of any volunteer under the Washington serves program for any other purpose. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, old age, health and survivor's insurance, state retirement plans, and vacation leave do not apply to volunteers under this program. [1993 sp.s. c 7 § 7.]

50.65.280 Washington serves—Displacement of current workers prohibited. The assignment of volunteers under the Washington serves program shall not result in the displacement of currently employed workers, including partial displacement such as would result from a reduction in hours of nonovertime work, wages, or other employment benefits. Participating agencies, programs, or activities may not terminate, lay off, or reduce the working hours of any employee for the purpose of using volunteers under the Washington serves program. In circumstances where substantial efficiencies or a public purpose may result, participating agencies may use volunteers to carry out essential agency work or contractual functions without displacing current employees. [1993 sp.s. c 7 § 8.]

50.65.290 Washington serves—Volunteers—Unemployment compensation coverage limited. The services of volunteers placed with participating agencies described in chapter 50.44 RCW are not eligible for unemployment compensation coverage. Each volunteer shall be so advised by the commissioner or the commissioner's designee. [1993 sp.s. c 7 § 9.]

50.65.300 Washington serves—Volunteers—Assistance to defer student loan payments. The commissioner or the commissioner's designee may assist any volunteer serving full-time under the Washington serves program in obtaining a service deferment of federally funded student

loan payments during his or her period of service. [1993 sp.s. c 7 § 10.]

50.65.310 Washington serves—Volunteers—Subsequent development of skills and experience—Recognition. The commissioner or the commissioner's designee may provide or arrange for educational, vocational, or job counseling for program volunteers at the end of their period of service to (1) encourage volunteers to use the skills and experience which they have derived from their training and service, and (2) promote the development of appropriate opportunities for the use of such skills and experience, and the placement therein of such volunteers. The commissioner or the commissioner's designee may also assist volunteers in developing a plan for gainful employment.

The commissioner shall provide for an appropriate means of recognition or certification of volunteer service. [1993 sp.s. c 7 § 11.]

50.65.320 Washington serves—Service placement—Work agreements—Contracts—Rules for agencies—Financial support for organizations. The executive administrator of the Washington serves program shall recruit and develop service placements and may enter into work agreements or contracts as needed to implement the Washington serves program. The commissioner, after consultation with the council, may adopt rules for participating agencies which rules may include, but are not limited to: Supervision of volunteers, reasonable work space or other working environment conditions, ongoing training, the handling of grievances or disputes, performance evaluations, frequency of agency contacts, and liability insurance coverage. The commissioner shall determine financial support levels for organizations receiving volunteer placements that will provide matching funds for enrollees in service projects under work agreements. [1993 sp.s. c 7 § 12.]

50.65.330 Washington serves—Gifts, grants, endowments—Matching funds. The department may receive such gifts, grants, and endowments from private or public sources that may be made from time to time, in trust or otherwise, for the use and benefit of the Washington serves program and spend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

The department may also use funds appropriated for the purposes of this chapter as matching funds for federal or private source funds to accomplish the purposes of this chapter. [1993 sp.s. c 7 § 13.]

50.65.901 Conflict with federal requirements—1983 1st ex.s. c 50. 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, such conflicting part of this act is 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. [1983 1st ex.s. c 50 § 16.]

50.65.903 Conflict with federal requirements—1987 c 167. If any part of this chapter is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, such conflicting part of this chapter is 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 chapter. The rules under this chapter shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1987 c 167 § 12.]

50.65.906 Conflict with federal requirements—1993 sp.s. c 7. If any part of this act is found to be in conflict with federal requirements which are prescribed conditions to the receipt of federal funds or participation in any federal program, such conflicting part of this act is 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 the act. Rules adopted pursuant to this act shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state. [1993 sp.s. c 7 § 14.]

50.65.907 Short title—1993 sp.s. c 7. Sections 1 through 13 of this act may be known and cited as the Washington serves act. [1993 sp.s. c 7 § 15.]

Chapter 50.70 RCW

PROGRAMS FOR DISLOCATED FOREST PRODUCTS WORKERS

Sections

- 50.70.030 Employment opportunities—Benefits.
- 50.70.040 Recruitment—Career orientation services—Career counseling.
- 50.70.050 Department of natural resources duties.
- 50.70.901 Conflict with federal requirements—1991 c 315.

Community college program for dislocated forest products workers: RCW 28B.50.259.

Emergency mortgage and rental assistance program—Rural natural resources impact areas—Grants and loans: RCW 43.63A.610 through 43.63A.640.

Enrollment of persons in timber impact areas in basic health plan: RCW 70.47.115.

Skagit river salmon recovery plan: RCW 77.95.140.

50.70.030 Employment opportunities—Benefits. (1) Employment opportunities under the program shall consist of activities that improve the value of state lands and waters. These activities may include, but are not limited to, thinning and precommercial thinning, pruning, slash removal, reforestation, fire suppression, trail maintenance, maintenance of recreational facilities, dike repair, development and maintenance of tourist facilities, and stream enhancement.

(2) Enrollees in the program shall receive medical and dental benefits as provided under chapter 41.05 RCW, but are exempt from the provisions of chapter 41.06 RCW. Each week, enrollees shall not work more than thirty-two hours in this program and must participate in eight hours of career orientation as established in RCW 50.70.040. Participation in the program is limited to six months. [1991 c 315 § 7.]

Intent—1991 c 315: See note following RCW 28B.50.030.

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50.70.040 Recruitment—Career orientation services—Career counseling. (1) The department shall recruit program applicants and provide employment opportunities by:

(a) Notifying dislocated forest products workers who are receiving unemployment benefits, or dislocated forest products workers who have exhausted unemployment benefits, of their eligibility for the program.

(b) Establishing procedures for dislocated forest products workers to apply to the program.

(c) Developing a pool of workers eligible to enroll in the program.

(d) Contracting with the department of natural resources to provide employment opportunities for not less than two hundred eligible enrollees.

(2) The department shall provide career orientation services to enrollees in the program. The career orientation services shall include, but are not limited to, counseling on employment options and assistance in accessing retraining programs, and assistance in accessing social service programs.

(3) The department shall provide at least eight hours of career counseling each week for program enrollees. [1991 c 315 § 8.]

Intent—1991 c 315: See note following RCW 28B.50.030.

50.70.050 Department of natural resources duties.

(1) The department of natural resources shall enroll candidates in the program from a pool of eligible workers developed by the department.

(2) The department of natural resources shall provide compensation for enrollees. [1991 c 315 § 9.]

Intent—1991 c 315: See note following RCW 28B.50.030.

50.70.901 Conflict with federal requirements—1991 c 315. 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 or the eligibility of employers in this state for federal unemployment tax credits, 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 or the granting of federal unemployment tax credits to employers in this state. [1991 c 315 § 32.]

Chapter 50.72 RCW

YOUTHBUILD PROGRAM

Sections

- 50.72.010 Legislative findings.
- 50.72.020 Definitions.
- 50.72.030 Commissioner's duties—Education and employment training grants.
- 50.72.040 Education and employment training grants—Eligible activities.
- 50.72.050 Participation time limits—Educational services and activities requirement.
- 50.72.060 Grant applications—Requirements.
- 50.72.070 Grant applicants—Information required—Evaluation reports.

50.72.010 Legislative findings. (1) The legislature finds that there is a need to:

(a) Expand the supply of permanent affordable housing for homeless individuals, low and very low-income persons, and special need populations by utilizing the energies and talents of economically disadvantaged youth;

(b) Provide economically disadvantaged youth with opportunities for meaningful work and service to their communities in helping to meet the housing needs of homeless individuals, low and very low-income persons, and special need populations;

(c) Enable economically disadvantaged youth to obtain the education and employment skills necessary to achieve economic self-sufficiency; and

(d) Foster the development of leadership skills and commitment to community development among youth in designated community empowerment zones.

(2) The legislature declares that the purpose of the Washington youthbuild program is to:

(a) Help disadvantaged youth who have dropped out of school to obtain the education and employment skills necessary to achieve economic self-sufficiency and develop leadership skills and a commitment to community development in designated community empowerment zones; and

(b) Provide funding assistance to entities implementing programs that provide comprehensive education and skills training programs designed to lead to self-sufficiency for economically disadvantaged youth. [1994 sp.s. c 3 § 1.]

50.72.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Applicant" means a public or private nonprofit organization agency eligible to provide education and employment training under federal or state employment training programs.

(2) "Commissioner" means the commissioner of employment security.

(3) "Department" means the employment security department.

(4) "Low income" has the same meaning as in RCW 43.185A.010.

(5) "Participant" means an individual that:

(a) Is sixteen to twenty-four years of age, inclusive;

(b) Is or is a member of a very low-income household; and

(c) Is neither attending any school nor subject to a compulsory attendance law and who has not received a secondary school diploma or a certificate of equivalency for such diploma.

(6) "Very low income" means a person or household whose income is at or below fifty percent of the median family income, adjusted for household size, for the county where the household is located.

(7) "Youthbuild" means any program that provides disadvantaged youth with opportunities for employment, education, leadership development, entrepreneurial skills development, and training in the construction or rehabilitation of housing for special need populations, very low-income households, or low-income households. [1994 sp.s. c 3 § 2.]

50.72.030 Commissioner's duties—Education and employment training grants. The Washington youthbuild program is established within the department. The commissioner, in cooperation and consultation with the director of the *department of community, trade, and economic development, shall:

(1) Make grants, up to the lesser of three hundred thousand dollars or twenty-five percent of the total costs of the youthbuild activities, to applicants eligible to provide education and employment training under federal or state employment training programs, for the purpose of carrying out a wide range of multidisciplinary activities and services to assist economically disadvantaged youth under the federal opportunities for youth: Youthbuild program (106 Stat. 3723; 42 U.S.C. Sec. 8011), or locally developed youthbuild-type programs for economically disadvantaged youth; and

(2) Coordinate youth employment and training efforts under the department's jurisdiction and cooperate with other agencies and departments providing youth services to ensure that funds appropriated for the purposes of this chapter will be used to supplement funding from federal, state, local, or private sources. [1994 sp.s. c 3 § 3.]

*Reviser's note: The "department of community, trade, and economic development" was renamed the "department of commerce" by 2009 c 565.

50.72.040 Education and employment training grants—Eligible activities. (1) Grants made under this chapter shall be used to fund an applicant's activities to implement a comprehensive education and employment skills training program.

(2) Activities eligible for assistance under this chapter include:

(a) Education and job skills training services and activities that include:

(i) Work experience and skills training, coordinated to the maximum extent feasible, with preapprenticeship and apprenticeship programs in construction and rehabilitation trades;

(ii) Services and activities designed to meet the educational needs of participants, including basic skills instruction and remedial education, bilingual education for participants with limited-English proficiency, secondary education services and activities designed to lead to the attainment of a high school diploma or its equivalent, and counseling and assistance in attaining postsecondary education and required financial aid;

(b) Counseling services and related activities;

(c) Activities designed to develop employment and leadership skills;

(d) Support services and need-based stipends necessary to enable the participant to participate in the program and to assist participants through support services in retaining employment;

(e) Wage stipends and benefits provided to participants; and

(f) Administrative costs of the applicant, not to exceed five percent of the amount of assistance provided under this chapter. [1994 sp.s. c 3 § 4.]

50.72.050 Participation time limits—Educational services and activities requirement. (1) An individual selected as a participant in the youthbuild program under this chapter may be offered full-time participation for a period of not less than six months and not more than twenty-four months.

(2) An applicant's program that is selected for funding under this chapter shall be structured so that fifty percent of the time spent by the participants in the youthbuild program is devoted to educational services and activities, such as those outlined in RCW 50.72.040. [1994 sp.s. c 3 § 5.]

50.72.060 Grant applications—Requirements. (1) An application for a grant under this chapter shall be submitted by the applicant in such form and in accordance with the requirements as determined by the commissioner.

(2) The application for a grant under this chapter shall contain at a minimum:

(a) The amount of the grant request and its proposed use;
 (b) A description of the applicant and a statement of its qualifications, including a description of the applicant's past experience with housing rehabilitation or construction with youth and youth education and employment training programs, and its relationship with local unions and apprenticeship programs and other community groups;

(c) A description of the proposed site for the program;

(d) A description of the educational and job training activities, work opportunities, and other services that will be provided to participants;

(e) A description of the proposed construction or rehabilitation activities to be undertaken and the anticipated schedule for carrying out such activities;

(f) A description of the manner in which eligible participants will be recruited and selected, including a description of arrangements which will be made with federal or state agencies, community-based organizations, local school districts, the courts of jurisdiction for status and youth offenders, shelters for homeless individuals and other agencies that serve homeless youth, foster care agencies, and other appropriate public and private agencies;

(g) A description of the special outreach efforts that will be undertaken to recruit eligible young women, including young women with dependent children;

(h) A description of how the proposed program will be coordinated with other federal, state, local, and private resources and programs, including vocational, adult, and bilingual education programs, and job training programs;

(i) Assurances that there will be a sufficient number of adequately trained supervisory personnel in the program who have attained journey level status or have served an apprenticeship through the Washington state apprenticeship training council;

(j) A description of the applicant's relationship with building contractor groups and trade unions regarding their involvement in training, and the relationship of the youthbuild program with established apprenticeship and training programs;

(k) A description of activities that will be undertaken to develop the leadership skills of the participants;

(l) A description of the commitments for any additional resources to be made available to the local program from the

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applicant, from recipients of other federal, state, local, or private sources; and

(m) Other factors the commissioner deems necessary. [2010 c 8 § 13045; 1994 sp.s. c 3 § 6.]

50.72.070 Grant applicants—Information required—Evaluation reports. (1) An applicant selected for funding under this chapter shall provide the department information on program and participant accomplishments. The information shall be provided in progress and final reports as requested by the department.

(2) A final evaluation report shall be prepared on individual programs at the time of their completion. The final evaluation report shall include, but is not limited to, information on the effectiveness of the program, the status of program participants, and recommendations on program administration at the state and local level. [1998 c 245 § 103; 1994 sp.s. c 3 § 7.]

Chapter 50.75 RCW

H-2A TEMPORARY AGRICULTURE PROGRAM

Sections

50.75.005	Intent.
50.75.010	Definitions.
50.75.020	Office of agricultural and seasonal workforce services—Creation—Duties.
50.75.030	Application—Requirements—Procedure.
50.75.040	Advisory committee—Composition—Report to governor and legislature.
50.75.050	Conflict with federal requirements—2019 c 441.

50.75.005 Intent. The legislature finds that the agricultural industry in the state of Washington employs more than one hundred thousand workers per year and brings more than seven billion dollars of economic activity to our state. This industry and its workers are a vital part of Washington's role in the global economy. The legislature further finds the number of the H-2A temporary agricultural workers coming into the state of Washington to harvest crops has grown by more than one thousand percent since 2007 and the funding provided by the federal government is insufficient to adequately ensure the protection of workers and growers. The legislature also finds the need to ensure this growth does not have an adverse impact on the domestic agricultural labor force.

The legislature declares it to be in the public interest to clarify the state's role in the H-2A temporary agricultural program to provide adequate protections for foreign and domestic workers and provide education and outreach opportunities to help growers maintain the stable workforce they need. [2019 c 441 § 1.]

50.75.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commissioner" means the commissioner of the employment security department.

(2) "Department" means the employment security department.

(3) "Employer" has the same meaning as in 20 C.F.R. Sec. 655.103. "Employer" also includes a "fixed-site employer," as defined in 20 C.F.R. Sec. 655.103, and an

employer in a "joint employment" relationship, as defined in 20 C.F.R. Sec. 655.103.

(4) "Field check" means an unannounced inspection and audit of an employer to determine and document whether the employer is providing wages, hours, and working and housing conditions as specified in the employer's approved H-2A application, as required by the United States department of labor.

(5) "Field visit" means a scheduled visit to an employer's premises where H-2A workers work, live, and gather to discuss employment services and other employment-related programs with workers, as required by the United States department of labor.

(6) "H-2A application" means an agricultural food processing clearance order form ETA 790 that describes the material terms and conditions of employment and is submitted in connection with a future application for temporary employment certification for H-2A workers to the United States department of labor under 20 C.F.R. Part 655, as amended.

(7) "H-2A worker" means any temporary foreign worker who is lawfully present in the United States to perform agricultural labor or services of a temporary or seasonal nature pursuant to Title 8 U.S.C. Sec. 1101(a)(15)(H)(ii)(a) of the immigration and nationality act, as amended.

(8) "Office" means the office of agricultural and seasonal workforce services established in RCW 50.75.020. [2019 c 441 § 2.]

50.75.020 Office of agricultural and seasonal workforce services—Creation—Duties. (1) The office of agricultural and seasonal workforce services is established within the department.

(2) The duties of the office are:

(a) Processing and adjudicating foreign labor certification applications from employers;

(b) Processing complaints consistent with 20 C.F.R. Part 658, Subpart E;

(c) Conducting field checks and field visits, as required by the United States department of labor. When conducting a field check, the office shall coordinate, to the extent possible, with the department of labor and industries, department of health, and department of agriculture in order to limit disruption to agricultural employers and efficiently use government resources;

(d) Administering the discontinuation and reinstatement of services process pursuant to 20 C.F.R. Part 658, Subpart F; and

(e) Conducting training and outreach activities to employers who are using agricultural and seasonal workforce services and programs within the employment security department. [2019 c 441 § 3.]

50.75.030 Application—Requirements—Procedure.

(1) An employer must submit an H-2A application in the manner and on a form prescribed by the department. The H-2A application is not subject to chapter 50.13 RCW.

(2) The department may not process an H-2A application if the:

(a) Employer refuses to agree to be subject to field checks and field visits; or

(b) Department discontinued services to the employer pursuant to 20 C.F.R. Part 658, Subpart F and that discontinuation remains in effect. [2019 c 441 § 4.]

50.75.040 Advisory committee—Composition—Report to governor and legislature. (1) The commissioner shall appoint an advisory committee to review issues and topics of interest related to this chapter.

(2)(a) The committee is composed of eight voting members:

(i) Four voting members representing agricultural workers' interests: One of whom shall be a farmworker; and all of whom shall be appointed from a list of at least four names submitted by a recognized statewide organization of workers;

(ii) Four voting members representing agricultural employers: One of whom shall be an agricultural employer; and all of whom shall be appointed from a list of at least four names submitted by a recognized statewide organization of agricultural employers; and

(iii) One ex officio member, without a vote, shall represent the department and serve as the chair.

(b) The department of labor and industries, department of health, and department of agriculture shall each have one nonvoting ex officio member serve on the advisory committee.

(3) On issues and topics of interest related to this chapter, the committee shall provide comment on department rule making, policies, implementation of this chapter, and initiatives, and study issues the committee determines require consideration.

(4) In even years, the committee shall submit a report to the governor and the legislature by October 31st that:

(a) Identifies and recommends approaches to increase the effectiveness of the employment security department's recruitment process as part of the H-2A application. If deemed advisable by the committee, the report may include recommended changes to state law that would lead to increased recruitment and hiring of domestic workers in agricultural employment in Washington; and

(b) Analyzes the costs incurred by the office to administer the H-2A program, the funds to administer other department programs for farmworkers, and the amount of funds allocated by the federal government to administer the H-2A program and all other agricultural programs within the department.

(5) The committee members shall serve without compensation, but are entitled to reimbursement for travel expenses as provided in RCW 43.03.050 and 43.03.060. The committee may utilize department personnel and facilities as it needs, without charge. [2019 c 441 § 5.]

50.75.050 Conflict with federal requirements—2019 c 441. If any part of this act is found to be in conflict with federal requirements that are a prescribed condition to the allocation of federal funds to the state or the eligibility of employers in this state for federal unemployment tax credits, the conflicting part of this act is inoperative solely to the extent of the conflict, and the finding or determination does not affect the operation of the remainder of this act. Rules adopted under this act must meet federal requirements that are a necessary condition to the receipt of federal funds by the

state or the granting of federal unemployment tax credits to employers in this state. [2019 c 441 § 6.]

Chapter 50.98 RCW CONSTRUCTION

Sections

50.98.010	Saving clause—1945 c 35.
50.98.020	Appointments and regulations continued.
50.98.030	Actions commenced under prior laws.
50.98.040	Acts repealed.
50.98.050	Conflicting acts repealed.
50.98.060	Repealed acts not reenacted.
50.98.070	Separability of provisions—1945 c 35.
50.98.100	Base year wages to include remuneration paid for previously uncovered services.
50.98.110	Compliance with federal unemployment tax act—Internal references—Interpretation.

50.98.010 Saving clause—1945 c 35. If any provisions of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act and the application of such provision to other persons or circumstances shall not be affected thereby. [1945 c 35 § 184; no RRS.]

50.98.020 Appointments and regulations continued. The repeal of any acts or parts of acts by this act shall not affect the appointment or employment of any individual or salary, wages, compensation, powers or duties relating to such individual which would continue in effect except for such repeal. Rules and regulations adopted pursuant to the provisions of any acts or parts of acts repealed by this act consistent with the provisions of this act are not affected by such repeal and are hereby continued in full force and effect. [1945 c 35 § 185; no RRS.]

50.98.030 Actions commenced under prior laws. Any action or proceeding had or commenced in any civil or criminal cause prior to the effective date of this act may be prosecuted and continued with the same effect and under the same provisions of the law in effect at the time the action or proceeding was had or commenced: PROVIDED, That no appeal taken subsequent to the effective date of this act will be effective or valid unless there is compliance with the requirements of this act relating to appeals. [1945 c 35 § 186; no RRS.]

50.98.040 Acts repealed. The following acts and parts of acts relating to unemployment compensation are hereby repealed: Chapter 162, Session Laws of 1937; chapter 12, Session Laws of 1939; chapter 214, Session Laws of 1939; section 6 of chapter 201, Session Laws of 1941; chapter 253, Session Laws of 1941; chapter 65, Session Laws of 1943; chapter 127, Session Laws of 1943; chapter 226, Session Laws of 1943. [1945 c 35 § 188; no RRS.]

50.98.050 Conflicting acts repealed. All acts or parts of acts in conflict with or in derogation of this act or any part of this act are hereby repealed insofar as the same are in conflict with or in derogation of this act or any part thereof. [1945 c 35 § 189; no RRS.]

50.98.060 Repealed acts not reenacted. The repeal of any acts or parts of acts hereby shall not be construed to reen-

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act or revive any act or parts of acts repealed or superseded by the acts or parts of acts hereby repealed. [1945 c 35 § 190; no RRS.]

50.98.070 Separability of provisions—1945 c 35. If any section, sentence, clause or phrase of this act should be held to be invalid or unconstitutional the invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this act. [1945 c 35 § 191; no RRS.]

Additional notes found at www.leg.wa.gov

50.98.100 Base year wages to include remuneration paid for previously uncovered services. (1) Effective with benefit years beginning on and after January 1, 1978, base year wages shall include remuneration paid for previously uncovered services: PROVIDED, That the maximum benefits payable to an individual as computed for the benefit year will be reduced to the extent that benefits were paid on the basis of identical calendar quarters of the previously uncovered services with respect to a claim filed by the individual under Title II of the Emergency Jobs and Unemployment Assistance Act of 1974. Benefits will be paid, subject to the provisions of this title, based upon the previously uncovered services to the extent that the unemployment compensation trust fund will be reimbursed for the cost thereof by the federal government under section 121 of PL 94-566 and regulations published by the secretary of labor relating thereto.

(2) For the purposes of this section, the term "previously uncovered services" means services performed before January 1, 1978, which are not employment as defined in Title 50 RCW at any time during the one year period ending December 31, 1975, and which:

(a) Is agricultural labor as defined in RCW 50.04.150 and covered by RCW 50.04.155 or domestic services as defined in and covered by RCW 50.04.160; or

(b) Is service performed by an employee of this state or a political subdivision of this state newly covered by chapter 292, Laws of 1977 ex. sess. or by an employee of a nonprofit educational institution which is not an institution of higher education as provided in *RCW 50.44.040(3).

(3) Any nonprofit organization or governmental entity electing to make payments in lieu of contributions shall not be liable to make payments with respect to benefits paid any individual whose base year wages include wages for previously uncovered services as defined in subsection (2)(a) and (b) of this section to the extent that the unemployment compensation fund is reimbursed for the benefits under section 121 of PL 94-566.

(4) Benefits paid any individual whose base year wages include wages for previously uncovered services as defined in subsection (2)(a) and (b) of this section shall not be charged to the experience rating account of any contribution paying employer to the extent that the unemployment compensation fund is reimbursed for the benefits under section 121 of PL 94-566. [1977 ex.s. c 292 § 20.]

*Reviser's note: RCW 50.44.040 was amended by 2007 c 386 § 1, deleting subsection (3).

Additional notes found at www.leg.wa.gov

50.98.110 Compliance with federal unemployment tax act—Internal references—Interpretation. Chapter 292, Laws of 1977 ex. sess. has been enacted to meet the requirements imposed by the federal unemployment tax act as amended by PL 94-566. Internal references in any section of chapter 292, Laws of 1977 ex. sess. to the provisions of that act are intended only to apply to those provisions as they existed as of *the effective date of chapter 292, Laws of 1977 ex. sess.

In view of the importance of compliance of chapter 292, Laws of 1977 ex. sess. with the federal unemployment tax act, any ambiguities contained herein should be resolved in a manner consistent with the provisions of that act. Considerable weight has been given to the commentary contained in that document entitled "Draft Language and Commentary to Implement the Unemployment Compensation Amendments of 1976 PL 94-566", published by the United States department of labor, employment and training administration, and that commentary should be referred to when interpreting the provisions of chapter 292, Laws of 1977 ex. sess. [1977 ex.s. c 292 § 21.]

***Reviser's note:** For the effective dates of 1977 ex.s. c 292, see note following RCW 50.04.116.