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**HOUSE BILL 1898**

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**State of Washington**

**68th Legislature**

**2024 Regular Session**

**By** Representatives Schmidt, Fosse, Connors, Berry, Bronoske, Abbarno, Ormsby, and Volz; by request of Employment Security Department

Prefiled 12/06/23.

1 AN ACT Relating to unemployment insurance benefit charging;  
2 amending RCW 50.12.200; and reenacting and amending RCW 50.29.021.

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

4 **Sec. 1.** RCW 50.29.021 and 2023 c 451 s 2 and 2023 c 240 s 3 are  
5 each reenacted and amended to read as follows:

6 (1)(a) An experience rating account shall be established and  
7 maintained for each employer, except employers as described in RCW  
8 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
9 payments in lieu of contributions, taxable local government employers  
10 as described in RCW 50.44.035, and those employers who are required  
11 to make payments in lieu of contributions, based on existing records  
12 of the employment security department.

13 (b) Benefits paid to an eligible individual shall be charged to  
14 the experience rating accounts of each of such individual's employers  
15 during the individual's base year in the same ratio that the wages  
16 paid by each employer to the individual during the base year bear to  
17 the wages paid by all employers to that individual during that base  
18 year, except as otherwise provided in this section.

19 (c) When the eligible individual's separating employer is a  
20 covered contribution paying base year employer, benefits paid to the

1 eligible individual shall be charged to the experience rating account  
2 of only the individual's separating employer if:

3 (i) The individual qualifies for benefits under RCW 50.20.050  
4 (1)(b)(i) or (2)(b)(i), as applicable, and became unemployed after  
5 having worked and earned wages in the bona fide work;

6 (ii) The individual qualifies for benefits under RCW 50.20.050  
7 (1)(b)(v) through (x) or (2)(b)(v) through (x); or

8 (iii) During a public health emergency, the claimant worked at a  
9 health care facility as defined in RCW 9A.50.010, was directly  
10 involved in the delivery of health services, and was terminated from  
11 work due to entering quarantine because of exposure to or contracting  
12 the disease that is the subject of the declaration of the public  
13 health emergency.

14 (2) The legislature finds that certain benefit payments, in whole  
15 or in part, should not be charged to the experience rating accounts  
16 of employers except those employers described in RCW 50.44.010,  
17 50.44.030, and 50.50.030 who have properly elected to make payments  
18 in lieu of contributions, taxable local government employers  
19 described in RCW 50.44.035, and those employers who are required to  
20 make payments in lieu of contributions, as follows ~~((+))~~ in (a)  
21 through (i) of this subsection. The department may not require an  
22 employer to submit a request in order for these benefits to not be  
23 charged.

24 (a) Benefits paid to any individual later determined to be  
25 ineligible for those benefits or disqualified to receive those  
26 benefits shall not be charged to the experience rating account of any  
27 contribution paying employer, except ~~((as))~~:

28 (i) As provided in subsection (4) of this section; or

29 (ii) As provided in subsection (5) of this section.

30 (b) Benefits paid to an individual filing under the provisions of  
31 chapter 50.06 RCW shall not be charged to the experience rating  
32 account of any contribution paying employer only if:

33 (i) The individual files under RCW 50.06.020(1) after receiving  
34 crime victims' compensation for a disability resulting from a  
35 nonwork-related occurrence; or

36 (ii) The individual files under RCW 50.06.020(2).

37 (c) Benefits paid which represent the state's share of benefits  
38 payable as extended benefits defined under RCW 50.22.010(6) shall not  
39 be charged to the experience rating account of any contribution  
40 paying employer.

1 (d) In the case of individuals who requalify for benefits under  
2 RCW 50.20.050 or 50.20.060, benefits based on wage credits earned  
3 prior to the disqualifying separation shall not be charged to the  
4 experience rating account of the contribution paying employer from  
5 whom that separation took place.

6 ~~((Benefits paid to an individual who qualifies for benefits  
7 under))~~ If the department determines an individual left the employ of  
8 the separating employer under the circumstances described in RCW  
9 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for separation that  
10 was necessary because the care for a child or a vulnerable adult in  
11 the claimant's care is inaccessible, (iv), (xi), (xii), or (xiii), or  
12 (3), as applicable, benefits paid to that individual shall not be  
13 charged to the experience rating account of any base year  
14 contribution paying employer.

15 ~~((Benefits paid that exceed the benefits that would have been  
16 paid if the weekly benefit amount for the claim had been determined  
17 as one percent of the total wages paid in the individual's base year  
18 shall not be charged to the experience rating account of any  
19 contribution paying employer. This subsection (2)(f) does not apply  
20 to the calculation of contribution rates under RCW 50.29.025 for rate  
21 year 2010 and thereafter.~~

22 ~~((g))~~ Upon approval of an individual's training benefits plan  
23 submitted in accordance with RCW 50.22.155(2), an individual is  
24 considered enrolled in training, and regular benefits beginning with  
25 the week of approval shall not be charged to the experience rating  
26 account of any contribution paying employer.

27 ~~((h))~~ (g) Training benefits paid to an individual under RCW  
28 50.22.155 shall not be charged to the experience rating account of  
29 any contribution paying employer.

30 ~~((i))~~ (h)(i) Benefits paid during the one week waiting period  
31 when the one week waiting period is fully paid or fully reimbursed by  
32 the federal government shall not be charged to the experience rating  
33 account of any contribution paying employer.

34 (ii) In the event the one week waiting period is partially paid  
35 or partially reimbursed by the federal government, the department  
36 may, by rule, elect to not charge, in full or in part, benefits paid  
37 during the one week waiting period to the experience rating account  
38 of any contribution paying employer.

39 ~~((j))~~ (i) Benefits paid for all weeks starting with the week  
40 ending March 28, 2020, and ending with the week ending May 30, 2020,

1 shall not be charged to the experience rating account of any  
2 contribution paying employer.

3 (3) (a) A contribution paying base year employer, except employers  
4 as provided in subsection (5) of this section, not otherwise eligible  
5 for relief of charges for benefits under this section, may receive  
6 such relief if the benefit charges result from payment to an  
7 individual who:

8 (i) Last left the employ of such employer voluntarily for reasons  
9 not attributable to the employer. In addition to other circumstances  
10 identified by the department by rule, an individual who leaves the  
11 employ of such employer under the circumstances described in RCW  
12 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), or (xii), or (3)  
13 must be deemed to have left their employ for reasons not attributable  
14 to the employer;

15 (ii) Was discharged for misconduct or gross misconduct connected  
16 with his or her work not a result of inability to meet the minimum  
17 job requirements;

18 (iii) Is unemployed as a result of closure or severe curtailment  
19 of operation at the employer's plant, building, worksite, or other  
20 facility. This closure must be for reasons directly attributable to a  
21 catastrophic occurrence such as fire, flood, or other natural  
22 disaster, or to the presence of any dangerous, contagious, or  
23 infectious disease that is the subject of a public health emergency  
24 at the employer's plant, building, worksite, or other facility;

25 (iv) Continues to be employed by the employer seeking relief and:  
26 (A) The employer furnished part-time work to the individual during  
27 the base year; (B) the individual has become eligible for benefits  
28 because of loss of employment with one or more other employers; and  
29 (C) the employer has continued to furnish or make available part-time  
30 work to the individual in substantially the same amount as during the  
31 individual's base year. This subsection does not apply to shared work  
32 employers under chapter 50.60 RCW;

33 (v) Was hired to replace an employee who is a member of the  
34 military reserves or National Guard and was called to federal active  
35 military service by the president of the United States and is  
36 subsequently laid off when that employee is reemployed by their  
37 employer upon release from active duty within the time provided for  
38 reemployment in RCW 73.16.035;

39 (vi) Worked for an employer for 20 weeks or less, and was laid  
40 off at the end of temporary employment when that employee temporarily

1 replaced a permanent employee receiving family or medical leave  
2 benefits under Title 50A RCW, and the layoff is due to the return of  
3 that permanent employee. This subsection (3) (a) (vi) applies to claims  
4 with an effective date on or after January 1, 2020; or

5 (vii) Was discharged because the individual was unable to satisfy  
6 a job prerequisite required by law or administrative rule.

7 (b) The employer requesting relief of charges under this  
8 subsection must request relief in writing within 30 days following  
9 mailing to the last known address of the notification of the valid  
10 initial determination of such claim, stating the date and reason for  
11 the separation or the circumstances of continued employment. The  
12 department may waive this time limitation for good cause. The  
13 commissioner, upon investigation of the request, shall determine  
14 whether relief should be granted.

15 (4) When a benefit claim becomes invalid due to an amendment or  
16 adjustment of a report where the employer failed to report or  
17 inaccurately reported hours worked or remuneration paid, or both, all  
18 benefits paid will be charged to the experience rating account of the  
19 contribution paying employer or employers that originally filed the  
20 incomplete or inaccurate report or reports. An employer who  
21 reimburses the trust fund for benefits paid to workers and who fails  
22 to report or inaccurately reported hours worked or remuneration paid,  
23 or both, shall reimburse the trust fund for all benefits paid that  
24 are based on the originally filed incomplete or inaccurate report or  
25 reports.

26 (5) An employer's experience rating account may not be relieved  
27 of charges for a benefit payment and an employer who reimburses the  
28 trust fund for benefit payments may not be credited for a benefit  
29 payment if a benefit payment was made because the employer or  
30 employer's agent failed to respond timely or adequately to a written  
31 request of the department for information relating to the claim or  
32 claims without establishing good cause for the failure and the  
33 employer or employer's agent has a pattern of such failures. The  
34 commissioner has the authority to determine whether the employer has  
35 good cause under this subsection.

36 (a) For the purposes of this subsection, "adequately" means  
37 providing accurate information of sufficient quantity and quality  
38 that would allow a reasonable person to determine ~~((eligibility for))~~  
39 whether an individual is eligible for or qualified to receive  
40 benefits.

1 (b) (i) For the purposes of this subsection, "pattern" means a  
2 benefit payment was made because the employer or employer's agent  
3 failed to respond timely or adequately to a written request of the  
4 department for information relating to a claim or claims without  
5 establishing good cause for the failure, if the greater of the  
6 following calculations for an employer is met:

7 (A) At least three times in the previous two years; or

8 (B) Twenty percent of the total current claims against the  
9 employer.

10 (ii) If an employer's agent is utilized, a pattern is established  
11 based on each individual client employer that the employer's agent  
12 represents.

13 **Sec. 2.** RCW 50.12.200 and 2020 c 86 s 1 are each amended to read  
14 as follows:

15 (1) The commissioner shall appoint a state advisory council  
16 composed of not more than nine (~~(men and women)~~) persons, of which  
17 three shall be representatives of employers, three shall be  
18 representatives of employees, and three shall be representatives of  
19 the general public. Such council shall aid the commissioner in  
20 formulating policies and discussing problems related to the  
21 administration of this title and of assuring impartiality and freedom  
22 from political influence in the solution of such problems. The  
23 council shall serve without compensation. The commissioner may also  
24 appoint committees, and industrial or other special councils, to  
25 perform appropriate services. Advisory councilmembers shall be  
26 reimbursed for travel expenses incurred in accordance with RCW  
27 43.03.050 and 43.03.060 as now existing or hereafter amended.

28 (2) Beginning in 2021 and ending in 2030, the commissioner shall  
29 annually report to the state advisory council the amount of benefits  
30 that were not charged to employers as a direct consequence of RCW  
31 50.29.021(3)(a) (~~(viii)~~) (vii).

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