

CERTIFICATION OF ENROLLMENT

HOUSE BILL 1898

68th Legislature
2024 Regular Session

Passed by the House January 25, 2024
Yeas 93 Nays 0

**Speaker of the House of
Representatives**

Passed by the Senate February 27,
2024
Yeas 49 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **HOUSE BILL 1898** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

HOUSE BILL 1898

Passed Legislature - 2024 Regular Session

State of Washington

68th Legislature

2024 Regular Session

By Representatives Schmidt, Fosse, Connors, Berry, Bronoske, Abbarno, Ormsby, Volz, Leavitt, Low, Reed, Graham, Kloba, and Reeves; by request of Employment Security Department

Prefiled 12/06/23. Read first time 01/08/24. Referred to Committee on Labor & Workplace Standards.

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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