
SUBSTITUTE SENATE BILL 5009

State of Washington

61st Legislature

2009 Regular Session

By Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Marr, Swecker, Hobbs, King, Sheldon, Kilmer, Ranker, Berkey, Haugen, Kauffman, Rockefeller, Hatfield, McAuliffe, Shin, and Roach)

READ FIRST TIME 02/09/09.

1 AN ACT Relating to benefits charged to the experience rating
2 accounts of employers; 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 2008 c 323 s 2 are each amended to read
5 as follows:

6 (1) This section applies to benefits charged to the experience
7 rating accounts of employers for claims that have an effective date on
8 or after January 4, 2004.

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

16 (b) Benefits paid to an eligible individual shall be charged to the
17 experience rating accounts of each of such individual's employers
18 during the individual's base year in the same ratio that the wages paid

1 by each employer to the individual during the base year bear to the
2 wages paid by all employers to that individual during that base year,
3 except as otherwise provided in this section.

4 (c) When the eligible individual's separating employer is a covered
5 contribution paying base year employer, benefits paid to the eligible
6 individual shall be charged to the experience rating account of only
7 the individual's separating employer if the individual qualifies for
8 benefits under:

9 (i) RCW 50.20.050(2)(b)(i), as applicable, and became unemployed
10 after having worked and earned wages in the bona fide work; or

11 (ii) RCW 50.20.050(2)(b) (v) through (x).

12 (3) The legislature finds that certain benefit payments, in whole
13 or in part, should not be charged to the experience rating accounts of
14 employers except those employers described in RCW 50.44.010, 50.44.030,
15 and 50.50.030 who have properly elected to make payments in lieu of
16 contributions, taxable local government employers described in RCW
17 50.44.035, and those employers who are required to make payments in
18 lieu of contributions, as follows:

19 (a) Benefits paid to any individual later determined to be
20 ineligible shall not be charged to the experience rating account of any
21 contribution paying employer. However, when a benefit claim becomes
22 invalid due to an amendment or adjustment of a report where the
23 employer failed to report or inaccurately reported hours worked or
24 remuneration paid, or both, all benefits paid will be charged to the
25 experience rating account of the contribution paying employer or
26 employers that originally filed the incomplete or inaccurate report or
27 reports. An employer who reimburses the trust fund for benefits paid
28 to workers and who fails to report or inaccurately reported hours
29 worked or remuneration paid, or both, shall reimburse the trust fund
30 for all benefits paid that are based on the originally filed incomplete
31 or inaccurate report or reports.

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

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

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

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

5 (d) In the case of individuals who requalify for benefits under RCW
6 50.20.050 or 50.20.060, benefits based on wage credits earned prior to
7 the disqualifying separation shall not be charged to the experience
8 rating account of the contribution paying employer from whom that
9 separation took place.

10 (e) Benefits paid to an individual who qualifies for benefits under
11 RCW 50.20.050(2)(b) (iv) or (xi), as applicable, shall not be charged
12 to the experience rating account of any contribution paying employer.

13 (f) With respect to claims with an effective date on or after the
14 first Sunday following April 22, 2005, benefits paid that exceed the
15 benefits that would have been paid if the weekly benefit amount for the
16 claim had been determined as one percent of the total wages paid in the
17 individual's base year shall not be charged to the experience rating
18 account of any contribution paying employer.

19 (4)(a) A contribution paying base year employer, not otherwise
20 eligible for relief of charges for benefits under this section, may
21 receive such relief if the benefit charges result from payment to an
22 individual who:

23 (i) Last left the employ of such employer voluntarily for reasons
24 not attributable to the employer;

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

28 (iii) Is unemployed as a result of closure or severe curtailment of
29 operation at the employer's plant, building, worksite, or other
30 facility. This closure must be for reasons directly attributable to a
31 catastrophic occurrence such as fire, flood, or other natural disaster;
32 ((or))

33 (iv) Continues to be employed on a regularly scheduled permanent
34 part-time basis by a base year employer and who at some time during the
35 base year was concurrently employed and subsequently separated from at
36 least one other base year employer. Benefit charge relief ceases when
37 the employment relationship between the employer requesting relief and

1 the claimant is terminated. This subsection does not apply to shared
2 work employers under chapter 50.06 RCW; or

3 (v) Was hired to replace an employee who is a member of the
4 military reserves or National Guard and was called to federal active
5 military service by the president of the United States and is
6 subsequently laid off when that employee is reemployed by their
7 employer upon release from active duty within the time provided for
8 reemployment in RCW 73.16.035.

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

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