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ENGROSSED SUBSTITUTE SENATE BILL 5041

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State of Washington

69th Legislature

2025 Regular Session

**By** Senate Labor & Commerce (originally sponsored by Senators Riccelli, Conway, Hasegawa, Saldaña, Salomon, Stanford, Dhingra, Nobles, Trudeau, Valdez, Bateman, Lovelett, Cleveland, Frame, Orwall, Pedersen, Slatter, Wellman, and C. Wilson)

READ FIRST TIME 02/18/25.

1       AN ACT Relating to unemployment insurance benefits for striking  
2       or lockout workers; amending RCW 50.20.090, 50.20.160, and 50.29.021;  
3       adding new sections to chapter 50.20 RCW; creating a new section;  
4       providing an effective date; and providing expiration dates.

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

6       **Sec. 1.** RCW 50.20.090 and 1988 c 83 s 1 are each amended to read  
7       as follows:

8       (1) An individual shall be disqualified for benefits for any week  
9       with respect to which the commissioner finds that the individual's  
10      unemployment is((÷

11      ~~(a) Due~~)) due to a strike at the factory, establishment, or other  
12      premises at which the individual is or was last employed((÷ ~~or~~

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

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

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

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

14 (3) (a) Any disqualification imposed under this section shall end  
15 ((~~when~~)) on the earlier of:

16 (i) The second Sunday following the first date of the strike,  
17 provided that the strike is not found to be prohibited by federal or  
18 state law in a final judgment. If a final judgment finds that a  
19 strike is prohibited by state or federal law, any benefits paid are  
20 liable for repayment as set forth in RCW 50.20.190; or

21 (ii) The date the strike ((~~or~~—~~lockout~~)) is terminated.

22 (b) When the disqualification ends, the individual is subject to  
23 the one week waiting period as provided in RCW 50.20.010 and any  
24 benefits must be calculated in accordance with this chapter. However,  
25 if an individual is unemployed due to a strike at the separating  
26 employer's factory, establishment, or other premises at which the  
27 individual is or was last employed, the individual may receive weekly  
28 benefits for no more than 12 calendar weeks, subject to other  
29 limitations provided in this title. Any weekly benefits received  
30 unrelated to the individual's unemployment due to a strike may not be  
31 counted toward the 12 calendar weeks.

32 **Sec. 2.** RCW 50.20.160 and 2003 2nd sp.s. c 4 s 31 are each  
33 amended to read as follows:

34 (1) A determination of amount of benefits potentially payable  
35 issued pursuant to the provisions of RCW 50.20.120 and 50.20.140  
36 shall not serve as a basis for appeal but shall be subject to request  
37 by the claimant for reconsideration and/or for redetermination by the  
38 commissioner at any time within one year from the date of delivery or  
39 mailing of such determination, or any redetermination thereof:

1 PROVIDED, That in the absence of fraud or misrepresentation on the  
2 part of the claimant, any benefits paid prior to the date of any  
3 redetermination which reduces the amount of benefits payable shall  
4 not be subject to recovery under the provisions of RCW 50.20.190. A  
5 denial of a request to reconsider or a redetermination shall be  
6 furnished the claimant in writing and provide the basis for appeal  
7 under the provisions of RCW 50.32.020.

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

14 (3) A determination of allowance of benefits shall become final,  
15 in absence of a timely appeal therefrom: PROVIDED, That the  
16 commissioner may redetermine such allowance at any time within two  
17 years following the benefit year in which such allowance was made in  
18 order to recover any benefits improperly paid and for which recovery  
19 is provided under the provisions of RCW 50.20.190: AND PROVIDED  
20 FURTHER, That in the absence of fraud, misrepresentation, or  
21 nondisclosure, this provision or the provisions of RCW 50.20.190  
22 shall not be construed so as to permit redetermination or recovery of  
23 an allowance of benefits which having been made after consideration  
24 of the provisions of RCW 50.20.010(1)(c), or the provisions of RCW  
25 50.20.050, 50.20.060, or 50.20.080(~~(, or 50.20.090)~~) has become  
26 final.

27 (4) A redetermination may be made at any time: (a) To conform to  
28 a final court decision applicable to either an initial determination  
29 or a determination of denial or allowance of benefits; (b) in the  
30 event of a back pay award or settlement affecting the allowance of  
31 benefits; or (c) in the case of fraud, misrepresentation, or willful  
32 nondisclosure. Written notice of any such redetermination shall be  
33 promptly given by mail or delivered to such interested parties as  
34 were notified of the initial determination or determination of denial  
35 or allowance of benefits and any new interested party or parties who,  
36 pursuant to such regulation as the commissioner may prescribe, would  
37 be an interested party.

38 **Sec. 3.** RCW 50.29.021 and 2024 c 51 s 1 are each amended to read  
39 as follows:

1 (1)(a) An experience rating account shall be established and  
2 maintained for each employer, except employers as described in RCW  
3 50.44.010, 50.44.030, and 50.50.030 who have properly elected to make  
4 payments in lieu of contributions, taxable local government employers  
5 as described in RCW 50.44.035, and those employers who are required  
6 to make payments in lieu of contributions, based on existing records  
7 of the employment security department.

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

14 (c) When the eligible individual's separating employer is a  
15 covered contribution paying base year employer, benefits paid to the  
16 eligible individual shall be charged to the experience rating account  
17 of only the individual's separating employer if:

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

21 (ii) The individual qualifies for benefits under RCW 50.20.050  
22 (1)(b)(v) through (x) or (2)(b)(v) through (x); ~~((e))~~

23 (iii) During a public health emergency, the claimant worked at a  
24 health care facility as defined in RCW 9A.50.010, was directly  
25 involved in the delivery of health services, and was terminated from  
26 work due to entering quarantine because of exposure to or contracting  
27 the disease that is the subject of the declaration of the public  
28 health emergency; or

29 (iv) The individual's unemployment is due to a strike at the  
30 separating employer's factory, establishment, or other premises at  
31 which the individual is or was last employed.

32 (2) The legislature finds that certain benefit payments, in whole  
33 or in part, should not be charged to the experience rating accounts  
34 of employers except those employers described in RCW 50.44.010,  
35 50.44.030, and 50.50.030 who have properly elected to make payments  
36 in lieu of contributions, taxable local government employers  
37 described in RCW 50.44.035, and those employers who are required to  
38 make payments in lieu of contributions, as follows in (a) through (i)  
39 of this subsection. The department may not require an employer to  
40 submit a request in order for these benefits to not be charged.

1 (a) Benefits paid to any individual later determined to be  
2 ineligible for those benefits or disqualified to receive those  
3 benefits shall not be charged to the experience rating account of any  
4 contribution paying employer, except:

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

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

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

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

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

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

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

23 (e) If the department determines an individual left the employ of  
24 the separating employer under the circumstances described in RCW  
25 50.20.050(1)(b) (iv) or (xi), (2)(b)(ii), only for separation that  
26 was necessary because the care for a child or a vulnerable adult in  
27 the claimant's care is inaccessible, (iv), (xi), (xii), or (xiii), or  
28 (3), as applicable, benefits paid to that individual shall not be  
29 charged to the experience rating account of any base year  
30 contribution paying employer.

31 (f) Upon approval of an individual's training benefits plan  
32 submitted in accordance with RCW 50.22.155(2), an individual is  
33 considered enrolled in training, and regular benefits beginning with  
34 the week of approval shall not be charged to the experience rating  
35 account of any contribution paying employer.

36 (g) Training benefits paid to an individual under RCW 50.22.155  
37 shall not be charged to the experience rating account of any  
38 contribution paying employer.

39 (h)(i) Benefits paid during the one week waiting period when the  
40 one week waiting period is fully paid or fully reimbursed by the

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

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

8 (i) Benefits paid for all weeks starting with the week ending  
9 March 28, 2020, and ending with the week ending May 30, 2020, shall  
10 not be charged to the experience rating account of any contribution  
11 paying employer.

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

17 (i) Last left the employ of such employer voluntarily for reasons  
18 not attributable to the employer. In addition to other circumstances  
19 identified by the department by rule, an individual who leaves the  
20 employ of such employer under the circumstances described in RCW  
21 50.20.050(1)(b) (iv) or (xi), (2)(b) (iv), (xi), or (xii), or (3)  
22 must be deemed to have left their employ for reasons not attributable  
23 to the employer;

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

27 (iii) Is unemployed as a result of closure or severe curtailment  
28 of operation at the employer's plant, building, worksite, or other  
29 facility. This closure must be for reasons directly attributable to a  
30 catastrophic occurrence such as fire, flood, or other natural  
31 disaster, or to the presence of any dangerous, contagious, or  
32 infectious disease that is the subject of a public health emergency  
33 at the employer's plant, building, worksite, or other facility;

34 (iv) Continues to be employed by the employer seeking relief and:  
35 (A) The employer furnished part-time work to the individual during  
36 the base year; (B) the individual has become eligible for benefits  
37 because of loss of employment with one or more other employers; and  
38 (C) the employer has continued to furnish or make available part-time  
39 work to the individual in substantially the same amount as during the

individual's base year. This subsection does not apply to shared work employers under chapter 50.60 RCW;

(v) 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;

(vi) Worked for an employer for 20 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 (3)(a)(vi) applies to claims with an effective date on or after January 1, 2020; or

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

(b) The employer requesting relief of charges under this subsection must request relief in writing within 30 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 department may waive this time limitation for good cause. The commissioner, upon investigation of the request, shall determine whether relief should be granted.

(4) 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.

(5) 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

1 request of the department for information relating to the claim or  
2 claims without establishing good cause for the failure and the  
3 employer or employer's agent has a pattern of such failures. The  
4 commissioner has the authority to determine whether the employer has  
5 good cause under this subsection.

6 (a) For the purposes of this subsection, "adequately" means  
7 providing accurate information of sufficient quantity and quality  
8 that would allow a reasonable person to determine whether an  
9 individual is eligible for or qualified to receive benefits.

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

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

17 (B) Twenty percent of the total current claims against the  
18 employer.

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

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 50.20  
23 RCW to read as follows:

24 (1) If an individual receives benefits under this title while  
25 being unemployed due to a strike at the separating employer's  
26 factory, establishment, or other premises and the individual  
27 subsequently receives retroactive wages from the separating employer  
28 for any week for which he or she received benefits under this title,  
29 the department shall issue an overpayment assessment to recover the  
30 corresponding benefits as provided under RCW 50.20.190.

31 (2) This section expires December 31, 2035.

32 NEW SECTION. **Sec. 5.** If any part of this act is found to be in  
33 conflict with federal requirements that are a prescribed condition to  
34 the allocation of federal funds to the state or the eligibility of  
35 employers in this state for federal unemployment tax credits, the  
36 conflicting part of this act is inoperative solely to the extent of  
37 the conflict, and the finding or determination does not affect the  
38 operation of the remainder of this act. Rules adopted under this act



1 must meet federal requirements that are a necessary condition to the  
2 receipt of federal funds by the state or the granting of federal  
3 unemployment tax credits to employers in this state.

4 NEW SECTION. **Sec. 6.** A new section is added to chapter 50.20  
5 RCW to read as follows:

6 (1) By December 31, 2025, and continuing annually each year until  
7 2035, the department must submit a report to the legislature on the  
8 prevalence of strikes occurring within Washington and the impact of  
9 strikes on the unemployment insurance trust fund. The report must  
10 include, at a minimum:

11 (a) The total number of strikes occurring that year within  
12 Washington, the industry sectors in which strikes occurred, the  
13 number of employees that participated in each strike, the number of  
14 unemployment claims paid to workers participating in the strike, the  
15 total amount of unemployment benefits paid, the number of employers  
16 who experienced a rate class increase in the year following a labor  
17 strike, including the rate class for each employer without  
18 identifying information for the year prior to the strike and for the  
19 year following the strike, any increase in the social cost factor  
20 rate from the year prior to the strike and the year following the  
21 strike, and the benefits paid which are charged to employers who make  
22 payments in lieu of contributions;

23 (b) The sum totals of all previous years' information required  
24 under (a) of this subsection since the effective date of this  
25 section; and

26 (c) The sum totals of the information required in (a) of this  
27 subsection for each year in the 10 years prior to the effective date  
28 of this section as well as the sum of those 10 years.

29 (2) This section expires January 1, 2036.

30 NEW SECTION. **Sec. 7.** This act takes effect January 1, 2026.

31 NEW SECTION. **Sec. 8.** Sections 1 through 3 of this act expire  
32 December 31, 2035.

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