AN ACT Relating to the economic adjustment and assistance act;  
adding a new chapter to Title 49 RCW; prescribing penalties; and  
declaring an emergency.

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

NEW SECTION. Sec. 1. Unless the context clearly requires  
otherwise, the definitions in this section apply throughout this  
chapter.

(1) "Affected employee" means an employee who may reasonably be  
expected to experience or who has experienced an employment loss as a  
consequence of a business closure or employee layoff by his or her  
employer whether or not the employee is or was employed at the single  
site of employment being closed or at which layoffs are occurring.

(2) "Aggrieved employee" means an employee who has worked for the  
employer ordering the business closure or employee layoff and who, as
a result of the failure by the employer to comply with section 2 of this act, did not receive timely notice as required under section 2 of this act either directly or through the worker’s representative.

(3) "Business closure" means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any thirty-day period of twenty-five or more employees, excluding part-time employees.

(4) "Employer" means any person, firm, corporation, partnership, business trust, legal representative, or other business entity which engages in any business, industry, profession, or activity in this state and employs: (a) Fifty or more employees, excluding part-time employees; or (b) fifty or more employees who in the aggregate work at least two thousand hours per week, exclusive of hours of overtime.

(5) "Employment loss" means: (a) An employment termination, other than a discharge for cause, voluntary departure, or retirement; (b) a layoff exceeding six months; or (c) a reduction in hours of work of more than fifty percent during each month of any six-month period.

(6) "Employee layoff" means a reduction in work force that is not the result of a business closure and that results in an employment loss at the single site of employment during any thirty-day period for (a) at least thirty-three percent of the employees, excluding any part-time employees, and at least twenty-five employees, excluding any part-time employees; or (b) at least five hundred employees, excluding any part-time employees. Layoffs of two or more groups of employees at a single site of employment within any ninety-day period, any one of which is below the limits stated in (a) or (b) of this subsection, shall be aggregated and shall constitute an employment layoff under this section if the aggregate is above the limit of (a) or (b) of this subsection,
unless the employer can show by a preponderance of the evidence that each individual layoff resulted from separate and distinct causes.

(7) "Labor-management committee" means a committee voluntarily formed pursuant to section 5 of this act to respond to actual or prospective employee dislocations and that is the primary means to oversee delivery of state and local resources to affected employees.

(8) "Part-time employee" means an employee who is employed for an average of fewer than twenty hours per week or who has been employed for fewer than six of the twelve months preceding the date on which notice under section 2 of this act is required.

NEW SECTION. Sec. 2. (1) No employer shall order a business closure or employee layoff until the end of a sixty-day period after the employer serves written notice of the order to the representative of the affected employees or, if none, to the affected employees, to the dislocated worker unit in the employment security department, and to the chief elected official of the unit of local government within which jurisdiction the closing or layoff is to occur.

(2) If all or part of a business is sold, the seller of the business is responsible for giving the notice required by this section for any business closure or employee layoff occurring on or before the effective date of the sale, and the buyer is responsible for giving the notice for any closure or layoff occurring after the effective date of the sale.

(3)(a) An employer that orders a business closure or employee layoff in violation of this section is liable to each aggrieved employee who suffers an employment loss as a result of the closure or layoff for back pay for each day of violation. Back pay shall be computed at a rate of compensation not less than the higher of: (i) The average regular rate of compensation received by the employee
during the preceding three years of the employee’s employment; or (ii)
the final regular rate of compensation received by the employee.

(b) The employer’s liability under (a) of this subsection is for
the period of the violation, up to a maximum of sixty days, but in no
event for more than one-half the number of days the employee was
employed by the employer.

(c) The amount by which an employer is liable under (a) of this
subsection is reduced by:

(i) Any wages paid by the employer to the employee for the period
for the violation; and

(ii) Any voluntary and unconditional payment by the employer to the
employee that is not required by a legal obligation.

(4) An employer who violates the notice provisions of this section
with respect to a unit of local government shall be subject to a civil
penalty of not more than five hundred dollars for each day of the
violation. However, the penalty does not apply if the employer pays to
each aggrieved employee the amount for which the employer is liable to
that employee within three weeks from the date the employer orders the
closure or layoff.

(5) A person aggrieved by a violation of this chapter, including
the organization representing affected employees for collective
bargaining or the affected unit of local government, may bring suit on
his or her own behalf or on behalf of other persons similarly situated,
or both, in the superior court of the county in which the violation
occurred or in which the employer transacts business. The court may
allow costs and reasonable attorney’s fees to the prevailing party.

(6) Upon request, an affected employee, or the organization
representing an affected employee for collective bargaining, is
entitled to information from his or her employer about business
closures or the number of employee layoffs ordered by the employer.
within ninety days of the closure or layoff that affected the employee making the request for information. A unit of local government in the jurisdiction in which a business closure or employee layoff is to occur is also entitled to information from the employer about closures or layoffs occurring within ninety days of the ordered closure or layoff.

NEW SECTION. Sec. 3. (1) No notice under this chapter is required if the business closure or employee layoff results from a natural disaster, including but not limited to flood, fire, drought, or earthquake.

(2) Before the conclusion of the sixty-day notice period specified in section 2 of this act, an employer may order:

(a) The shutdown of a single site of employment if, as of the time that the notice would have been required, the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(b) A business closure or employee layoff if the closing or layoff is caused by business circumstances that a reasonable employer would not have foreseen based on information that the employer knew or should have known on or after the date when the notice would have been required.

NEW SECTION. Sec. 4. If a collective bargaining agreement covering a site of employment that is subject to a business closure or employee layoff requires greater employee protection than is required by this chapter, the protections of the collective bargaining agreement shall not be reduced or impaired by this chapter.
NEW SECTION. Sec. 5. (1) Promotion of labor-management committees with full authority to obtain and oversee the services needed to meet the needs of dislocated workers shall be the primary mechanism of the state dislocated worker unit’s response to business closure and employee layoffs. The state dislocated worker unit shall report to the appropriate committees of the legislature on the number of closure or employee layoff notices received, the number of labor-management committees established, and the number of dislocated workers served by labor-management committees.

(2) Labor-management committees shall ordinarily include, but are not limited to, the following:

(a) Shared and equal participation by employees and the employer;

(b) Shared financial participation between the company and the state, using funds provided under federal law for this purpose, in paying for the operating expenses of the committee;

(c) A committee chair to provide oversight, advice, and guidance to the committee, who is jointly selected by the employee and employer committee members, who is not employed by or under contract with the employees or employer at the site, and who shall prepare a report on the committee’s activities;

(d) The ability to respond flexibly to the needs of affected employees by devising and implementing a strategy for assessing the employment and training needs for each dislocated worker, and for obtaining and overseeing the services and assistance necessary to meet those needs;

(e) A formal agreement, terminable at will by the employees or their employer, and terminable for cause by the governor of the state of Washington; and

(f) Local job identification activities by the chair and members of the committee on behalf of the affected employees.
(3) The dislocated worker unit of the employment security department shall promote the formation of labor-management committees by providing:

(a) Immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee and committee effectiveness training using funds provided under federal law for this purpose;

(b) A list of individuals from which the chair of the committee may be selected;

(c) Technical advice as well as information on sources of assistance, and liaison, with other public and private services and programs; and

(d) Assistance in the selection of employee representatives if the employees are not represented by a labor organization for collective bargaining.

(4) The dislocated worker unit shall distribute all closure notices within one week of receipt of the notice to the appropriate state agencies and the local reemployment support center, if a center exists in the community in which the closure or layoffs occur. The dislocated worker unit shall exchange information and coordinate programs with community-based organizations that assist dislocated workers.

NEW SECTION. Sec. 6. This act may be known and cited as the economic adjustment and assistance act.

NEW SECTION. Sec. 7. Sections 1 through 6 of this act shall constitute a new chapter in Title 49 RCW.
NEW SECTION. Sec. 8. 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 shall take effect immediately.