

SENATE BILL REPORT

SB 5319

As Reported by Senate Committee On:
Labor, Commerce & Consumer Protection, February 3, 2009
Ways & Means, February 10, 2009

Title: An act relating to providing economic stimulus through the unemployment insurance program.

Brief Description: Providing economic stimulus through the unemployment insurance program. [Revised for 2nd Substitute: Improving economic security through unemployment compensation.]

Sponsors: Senator Kohl-Welles; by request of Governor Gregoire.

Brief History:

Committee Activity: Labor, Commerce & Consumer Protection: 1/22/09, 2/03/09 [DPS-WM, w/oRec].

Ways & Means: 2/09/09, 2/10/09 [DP2S, w/oRec].

SENATE COMMITTEE ON LABOR, COMMERCE & CONSUMER PROTECTION

Majority Report: That Substitute Senate Bill No. 5319 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kohl-Welles, Chair; Keiser, Vice Chair; Franklin and Kline.

Minority Report: That it be referred without recommendation.

Signed by Senators Holmquist, Ranking Minority Member; Honeyford and King.

Staff: Mac Nicholson (786-7445)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Second Substitute Senate Bill No. 5319 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Pridemore, Regala and Rockefeller.

Minority Report: That it be referred without recommendation.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Signed by Senators Brandland, Carrell, Honeyford, Parlette, Pflug and Schoesler.

Staff: Michael Bezanson (786-7449)

Background: Unemployment Insurance (UI) Benefits. An individual is entitled to receive UI benefits provided the individual meets certain eligibility requirements. The amount of benefits an individual receives is calculated using two main figures: the individual's weekly benefit amount and the individual's maximum benefit. The weekly benefit amount paid to an individual is a percentage of the average wages the individual earned in the highest two of the previous four quarters. The maximum benefit an individual can receive is 26 times the weekly benefit amount. An individual who exhausts his or her regular UI claim can qualify for federal emergency unemployment compensation (EUC). The maximum amount of EUC an individual can qualify for is 33 times that person's weekly benefit amount. Regular UI benefits are paid out of the state's UI trust fund, while EUC benefits are paid by the federal government.

UI Taxes. An employer's total UI contribution, or tax, includes an experience rated tax and a social tax. The experience rated tax is related directly to an employer's UI experience, and employers are assigned to one of 40 rate classifications ranging from 0.0 percent to 5.4 percent. When an individual files a UI claim, benefits paid to that individual will be charged against the employer, resulting in a higher experience rated tax. The social tax component of an employer's total state unemployment tax covers social costs, or costs resulting from the payment of benefits to an individual that are not charged to a specific employer. The difference between the experience rated contributions paid by all employers and the UI benefits paid to all claimants is used to calculate the social tax. The current social tax rate is 0.5 percent of total taxable payroll.

The state, and any political subdivisions and qualified non-profit corporations that have elected to do so, make payments in lieu of UI contributions and are known as reimbursable employers. Reimbursable employers pay dollar for dollar on all UI benefits paid to former employees.

Training Benefits Program. Training benefits are additional UI benefits paid to workers who have lost their job and are attending an approved full-time vocational training program. The total training benefit amount is 52 times the weekly benefit amount, minus any regular UI benefits paid. Training benefits are charged to an employer's experience rating.

To be eligible to receive training benefits, an individual must:

- be eligible to receive or have exhausted regular UI benefits;
- be a dislocated worker;
- have sufficient tenure in an occupation or in work with a particular skill set;
- have been determined to need job-related training in order to find suitable employment in his or her labor market;
- submit a training program application within 60 days of notification of training benefit availability;
- enroll in the training program on a full-time basis within 90 days of notification of training benefit availability; and
- make satisfactory progress in the training as certified by the educational institution.

A training program must be a vocational program at an educational institution that is targeted to training for a high demand occupation, is likely to enhance the individual's marketable skills and earning power, and meets criteria for performance developed by the Workforce Training and Education Coordinating Board.

Shared Work Program. The shared work program allows employers to temporarily reduce employee hours rather than lay-off workers, and allows the workers to collect partial unemployment benefits. Eligibility is limited to employees who are paid on an hourly basis, and there must be a 10 to 50 percent reduction in usual weekly work hours. Employers seeking to participate in a shared work plan must submit a plan to Employment Security Department (ESD) that identifies the employees to which the plan applies and certify that the plan applies to at least 10 percent of the employees in the affected unit and that the aggregate reduction in work hours is in lieu of temporary layoffs.

The UI benefit amount distributed to an employee on a shared work plan is based on the employee's regular weekly benefit amount multiplied by the reduction in the employee's usual weekly hours. An employee on a shared work plan may not be paid shared benefits for more than a total of 26 weeks in any 12-month period.

Summary of Bill (Recommended Second Substitute): UI Benefits. Individuals who have existing UI claims on May 3, 2009, or who file new UI claims before January 3, 2010, will have their weekly benefit amount increased by \$45. The additional \$45 will be payable for all weeks of regular, extended, emergency, supplemental, or additional benefits remaining on that claim. The \$45 benefit is a socialized cost and will not be charged against contribution paying employers. The \$45 benefit will be charged to reimbursable employers. The \$45 benefit will not be used when calculating the social tax for the rate years 2010 and 2011.

An individual receiving an increased weekly benefit may apply that benefit towards the payment of the individual's Basic Health Plan monthly premium for the purpose of health coverage.

Training Benefits Program. Eligibility for the training benefits program is expanded to include low income workers (workers who make less than 130 percent of the state minimum wage), disabled workers, and honorably discharged military personnel who served during the 12-month period prior to application. Application and enrollment deadlines are extended 30 days to 90 and 120 days respectively, and ESD may waive the deadlines for good cause. Less than full time training may be approved when the individual has a physical, mental, or emotional disability that precludes full time enrollment. High-demand occupation is defined as an occupation with a substantial number of current or projected employment opportunities.

Training benefits on claims with an effective date on or after April 5, 2009, will not be charged back to the experience rating of the employer. Training benefits will be charged to reimbursable employers.

Shared Work Program. Shared work plans are no longer required to apply to at least 10 percent of the employees in an affected unit. Employees receiving UI benefits under a shared work plan may receive benefits during their entire benefit year. A shared work program must

go into effect within two weeks of commissioner approval, or later if requested by the employer.

EFFECT OF CHANGES MADE BY WAYS & MEANS COMMITTEE (Recommended Second Substitute): Provides for a temporary increase in unemployment benefits by adding \$45 to the weekly benefit amount, and making \$155 the minimum amount payable weekly.

Expands eligibility for the training benefits program to low-wage workers, military personnel, National Guard members, and persons who are disabled.

Adds requirement for the ESD to report on the training program and its resulting outcomes.

EFFECT OF CHANGES MADE BY LABOR, COMMERCE & CONSUMER PROTECTION COMMITTEE (Recommended First Substitute): The social tax reduction for rate year 2009 is removed.

An individual receiving an increased weekly benefit may apply that benefit towards the payment of the individual's Basic Health Plan monthly premium for the purpose of health coverage.

The proposed substitute adds state and federal severability clauses.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains two emergency clauses; sections 1 through 3 take effect on May 3, 2009; and sections 4 through 11 take effect on April 5, 2009.

Staff Summary of Public Testimony on Original Bill (Labor, Commerce & Consumer Protection): PRO: This is part of the Governor's proposed stimulus package. The economy is in crisis and the UI program has a powerful effect in reducing economic downturns. UI benefits go to those most likely to spend them, increasing impact on consumer spending. UI has a large bang for the buck on economic recovery. Washington has the largest trust fund in the country, and the state can afford to tap the fund to safely expand consumer spending and reduce employer taxes. This plan doesn't threaten the solvency of the trust fund, and it doesn't preclude the ability to meet federal conformity requirements. There is significant economic value in putting these funds to work in Washington. This legislation will make it easier for unemployed workers to get into training and re-tool themselves. There is a need in the state to up-skill individuals who have lost their jobs. There is a large reserve of money available for training benefits, but the deadlines and eligibility criteria make it difficult for unemployed individuals to receive the benefits. The existing deadlines aren't realistic, and adding time will benefit workers. Employers will have an increased ability to use the shared work program which is good for employers, employees, and the UI trust fund.

When developing the stimulus proposal, the group working on it wanted to promote job growth and retention, stimulate consumption in Washington, enhance the growth and stability of business, and provide temporary relief for unemployed individuals and employers. This is a balanced proposal, it benefits workers and employers. An economic stimulus plan is the right thing to do for the state. The stimulus plan and conformity are two separate issues and should be dealt with separately. The stimulus plan needs to be passed quickly to get money out to unemployed workers and employers, and the conformity issue will take time to figure out.

CON: Now is not the appropriate time to increase benefits. The UI system is out of conformity, and achieving conformity should be the number one priority, or employers and the state risk losing funding and incurring penalties. UI levels are growing, and the state can't accurately forecast downturn, so now is not the time to reduce the trust fund. Job retention needs to be the focus, and that is best accomplished through fiscal stability and the protection of key investments like education.

OTHER: The best stimulus for the economy is to address conformity. Without the ability to address conformity, employers are concerned about the stimulus impact on the UI trust fund. Business is working on a plan to address conformity, and conformity should become the stimulus package for the state. Training benefits should be used, but a better approach might be to open up the program to more unemployed individuals and sunset it at the end of the biennium. Shared work program changes are appreciated, but shared work is not a socialized cost, so there is a negative impact to the employer as the employer cycles through a shared work program. The best outcome is a recovering economy, and moving forward with conformity is the best solution. The tax cut proposed in the legislation for farmers is too small to do anything.

There are cities and counties, along with other political subdivisions, who are reimbursable employers that pay dollar for dollar on UI benefits. There is no tax cut in the legislation for such employers. The impact to local governments is significant and should be considered as the legislation is considered.

Persons Testifying (Labor, Commerce & Consumer Protection): PRO: Karen Lee, Commissioner, Employment Security Department; Mark Baldwin, Governor's Office; Dave Johnson, Washington State Building Trades; Craig Cole, Brown & Cole; Jeff Johnson, Washington State Labor Council, AFL-CIO.

CON: Steve Mullin, Washington Roundtable.

OTHER: Donna Steward, Association of Washington Business; Christine Swanson, Associated General Contractors; Carolyn Logue, Washington Food Industry; Dan Fazio, Washington Farm Bureau; Jim Justin, Association of Washington Cities; Gary Smith, Independent Business Association.

Staff Summary of Public Testimony on First Substitute (Ways & Means): OTHER: This bill will lead to an increase in the amount paid by reimbursable employers. For cities and counties this would be an extra \$1.4 million. Reimbursable employers pay dollar for dollar so when benefits go up, reimbursable employers pay more.

Persons Testifying (Ways & Means): OTHER: Jim Justin, Association of Cities.