

HOUSE BILL REPORT

HB 1821

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to unemployment compensation for persons with public employment contracts.

Brief Description: Modifying unemployment compensation for persons employed under public employment contracts.

Sponsors: Representatives Kessler, Buck, Quall, Carlson, Casada and Basich.

Brief History:

Committee Activity:

Commerce & Labor: 2/28/95, 3/1/95 [DPS].

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole; Fuhrman; Goldsmith and Horn.

Staff: Chris Cordes (786-7117).

Background:

Assignment of Compensation. To be considered unemployed under the unemployment insurance law, a person must be performing no services for which the person receives remuneration or must meet specific criteria as a qualified partially unemployed person.

If the person is receiving previously accrued compensation during a nonwork period, and that compensation is assigned to a specific period by an agreement with the employer, customary trade practice, or request of the person, then the compensation is considered remuneration for that period. If the payments make the person eligible for regular fringe benefits, then the payments are considered to be assigned for that period of time. Certain payments, such as severance pay, are not considered remuneration that can be assigned to a nonwork period. These provisions concerning

assignment of accrued compensation do not apply to persons employed by educational institutions.

There is no provision addressing the assignment of settlement proceeds or other similar proceeds that are received in lieu of completion of an employment contract when the parties to the settlement do not assign the proceeds as compensation for specified periods of time.

Definition of academic year. Federal law requires the states to deny unemployment insurance benefits to certain employees who work for educational institutions. Unemployment compensation may not be paid to these employees for unemployment that occurs between two successive academic years or terms if the employee has reasonable assurance that he or she will be reemployed for the same services in the next academic year or term. "Reasonable assurance" is defined as a written, verbal, or implied agreement that the employee will be reemployed in the same capacity.

In a recent Washington Court of Appeals case, the court was faced with the issue of whether the state statute implementing the federal requirement prohibits unemployment benefits during the summer quarter for a part-time community college teacher who is reasonably assured of teaching the following term. The court held that benefits were allowed because the summer quarter was an academic term. The Employment Security Department has been advised by the U.S. Department of Labor that this decision raises a federal conformity issue.

Summary of Substitute Bill:

Assignment of compensation. For unemployment insurance purposes, an individual who receives a settlement or other proceeds as a result of a negotiated settlement for termination of an employment contract with a public agency is considered to be receiving remuneration. The proceeds will be assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract. The exemption for educational institution employees from the provisions assigning remuneration is modified to include these employees in the coverage of these new assignment provisions.

Definition of academic year. For unemployment insurance purposes, "academic year" includes fall, winter, and spring quarters or comparable semesters, but does not include summer quarters or semesters unless objective criteria, including enrollment and staffing, show that the summer term is in fact part of the educational institution's academic year. Employees of educational institutions may not receive unemployment benefits for any week of unemployment that begins during the period between two successive academic years or terms within an academic year.

Substitute Bill Compared to Original Bill: The substitute bill deletes the provisions of the bill disqualifying individuals from unemployment if they received compensation to "buy out" a public employment contract. Instead, the substitute bill treats the settlement proceeds as compensation that is allocated as salary would have been under the contract. These provisions are made applicable to employees of educational institutions who otherwise are exempt from provisions dealing with assignment of compensation. The substitute bill adds a provision defining "academic year" for determining between-term benefits for employees of educational institutions.

Appropriation: None.

Fiscal Note: Requested February 23, 1995.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: There was a large public outcry over a case involving a public employee whose contract was bought out, but who still qualified for unemployment benefits. This is perceived as "double dipping." The statute should be changed to recognize that the compensation from the settlement of the contract was intended as salary to assist the person to transition to new employment.

Testimony Against: None.

Testified: (In favor of original bill) Representative Lynn Kessler, prime sponsor.
(Neutral) Graeme Sackrison, Employment Security Department.