

# HOUSE BILL REPORT

## SSB 5769

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### As Passed House:

April 6, 1995

**Title:** An act relating to recovery of unemployment insurance overpayments.

**Brief Description:** Revising provision on recovery of unemployment insurance overpayments.

**Sponsors:** Senate Committee on Labor, Commerce & Trade (originally sponsored by Senator Deccio; by request of Employment Security Department).

### Brief History:

#### Committee Activity:

Commerce & Labor: 3/22/95, 3/27/95 [DP].

#### Floor Activity:

Passed House: 4/6/95, 95-0.

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## HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** 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:** When a claimant files for unemployment compensation, a benefit year is established for the claimant. The benefit year consists of the fifty-two consecutive weeks beginning with the week that the claim was filed. The claimant is eligible for regular benefits during this benefit year. A claimant may also be eligible for extended benefits or additional benefits under certain circumstances. These claimants have an extra eligibility period that may extend beyond the end of the claimant's benefit year.

If an unemployment insurance claimant is paid benefits to which he or she is not entitled, the Employment Security Department must issue an overpayment assessment. However, the commissioner may waive overpayment if it is not the result of fraud, misrepresentation, willful nondisclosure, or fault attributable to the claimant and recovery of the overpayment would be against equity and good conscience.

If there is no fraud, misrepresentation, or willful nondisclosure, the overpayment assessment must be mailed or personally served on the claimant within two years after the end of the claimant's benefit year in which the overpayment was made, or within six months after a final decision on appeal. If the case involves fraud, misrepresentation, nondisclosure, or a back pay award or settlement, a redetermination of the amount of benefits may be made at any time.

**Summary of Bill:** A modification is made to determining the time period in which the Employment Security Department must issue any overpayment assessment to an unemployment insurance claimant. The time period begins either at the close of the applicable benefit year or when the final payment is made to the claimant on the applicable benefit year for which the overpayment was made, whichever is later.

In addition to cases involving fraud, misrepresentation, and willful nondisclosure, the time period for issuing the overpayment assessment does not apply where there is a back pay award or settlement affecting the allowance of benefits.

These provisions apply to job separations occurring after July 1, 1995.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.

**Testimony For:** (1) In recent years, many claimants have had benefit periods that extend beyond the original benefit year. These periods might include federal or federal-state extended benefit periods or state additional benefit periods. The Employment Security Department needs authority to assess overpayments for these extended periods as well as for the original benefit year. (2) This issue is of concern because Washington is the only state that must make conditional payments before all information is in, and this situation leads to frequent overpayments. (3) In recouping overpayments related to the claimant also getting industrial insurance benefits, the department should take into consideration any attorneys' fees that the claimant has incurred in pursuing the industrial insurance award.

**Testimony Against:** None.

**Testified:** (In favor) Dale Ziegler, Employment Security Department; and Clif Finch, Association of Washington Business. (Neutral) Wayne Lieb, Washington State Trial Lawyers Association.