

FINAL BILL REPORT

ESSB 6421

C 162 L 98

Synopsis as Enacted

Brief Description: Revising unemployment compensation for persons with public employment contracts.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Heavey and Winsley; by request of Employment Security Department).

Senate Committee on Commerce & Labor

House Committee on Commerce & Labor

Background: In order to receive unemployment insurance (UI) benefits in Washington, a person must be unemployed and available for work. In addition, there are specific criteria in the statute regarding any work-related remuneration that a claimant may receive for services rendered.

In certain instances employers provide financial settlements when employees are laid off. How these settlements or severance packages are structured can affect a laid-off worker's eligibility for UI benefits. Under the existing statute, a claimant in either the public or private sector is considered to have received remuneration and therefore denied unemployment insurance benefits if: (a) the individual is receiving previously accrued compensation during a nonwork period and that compensation is considered payment for that period; or (b) the payments make the person eligible for regular fringe benefits. As an example, these requirements would prevent an individual that is separated from an employer but using up his or her vacation pay from receiving UI benefits.

In private sector employment certain payments, such as negotiated settlements for termination of an employment contract, may not be considered remuneration for the purposes of unemployment insurance and, if so, the claimants are eligible to receive UI benefits. However, as a result of legislative action in 1995 (SHB 1821), employees in the public sector that receive similar severance pay arrangements are not considered eligible to receive UI benefits.

During 1997 the U.S. Department of Labor determined that this statute is potentially out of conformity with the federal unemployment law, because it treats public employees differently from those in the private sector. If Washington is found out of conformity with federal law, Washington employers will lose an estimated \$872 million in tax credits. In addition, the state will not receive approximately \$80 million in administrative funding for the Employment Security Department.

Under state law, a corporation is required to provide unemployment insurance coverage for the members of its board of directors if: (a) the board member is engaged in work activities outside of the standard board responsibilities; and (b) the board member receives compensation for these specific work activities.

Unemployment insurance coverage for corporate officers is optional. However, the decision on whether to participate in the UI program is required to be uniform for all officers. A business that chooses not to provide UI coverage for its officers must inform them in writing of the decision.

Summary: The state's federal conformity issues regarding unemployment insurance are addressed. The unemployment insurance law is modified to provide equal treatment for public and private sector employees. As a result, public and private sector employees that have individual written employment contracts and receive severance pay are in general not eligible for unemployment insurance benefits.

Votes on Final Passage:

Senate	48	0	
House	88	0	(House amended)
Senate	48	1	(Senate concurred)

Effective: March 29, 1998