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**ENGROSSED SUBSTITUTE HOUSE BILL 2947**

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**State of Washington**

**55th Legislature**

**1998 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives McMorris, Conway, Carlson, Kenney, Costa, Wood, Ogden and Gardner; by request of Employment Security Department)

Read first time 02/05/98. Referred to Committee on .

1       AN ACT Relating to unemployment compensation for part-time faculty;  
2 amending RCW 50.44.050 and 50.44.053; repealing 1995 c 296 s 4  
3 (uncodified); creating new sections; and declaring an emergency.

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

5       NEW SECTION.   **Sec. 1.** It is the intent of the legislature to  
6 clarify requirements related to unemployment compensation for employees  
7 at educational institutions.

8       The legislature finds that, unless clarified, Washington's  
9 unemployment compensation law may be out of conformity with the federal  
10 unemployment tax act, which finding poses a significant economic risk  
11 to the state's private employers and to the administration of the  
12 state's unemployment insurance system. It is the intent of the  
13 legislature, by the 1998, chapter . . . (this act) amendments to RCW  
14 50.44.050 and 50.44.053, to bring Washington's unemployment  
15 compensation law into conformity with federal law in these areas of  
16 concern.

17       The legislature finds that some instructional staff at the state's  
18 educational institutions receive an appointment of employment for an  
19 indefinite period while others may face circumstances that do not

1 provide a reasonable expectation of employment during an ensuing  
2 academic year or term.

3 Therefore, it is the intent of the legislature that the employment  
4 security department continue to make determinations of educational  
5 employees' eligibility for unemployment compensation for the period  
6 between academic years or terms based on a finding of reasonable  
7 assurance that the employee will have employment for the ensuing  
8 academic year or term and that the determination in each employee's  
9 case is made on an individual basis, consistent with federal  
10 guidelines. This determination must take into consideration  
11 contingencies that may exist in fact in an individual case. The 1998,  
12 chapter . . . (this act) amendment to RCW 50.44.053 is not intended to  
13 change the practice used by the employment security department when  
14 determining reasonable assurance. If, during fact-finding, there is a  
15 disagreement about whether an individual has reasonable assurance, the  
16 educational institution must provide documentation that reasonable  
17 assurance exists for that individual.

18 **Sec. 2.** RCW 50.44.050 and 1995 c 296 s 2 are each amended to read  
19 as follows:

20 Except as otherwise provided in subsections (1) through (4) of this  
21 section, benefits based on services in employment covered by or  
22 pursuant to this chapter shall be payable on the same terms and subject  
23 to the same conditions as compensation payable on the basis of other  
24 service subject to this title.

25 (1) Benefits based on service in an instructional, research, or  
26 principal administrative capacity for an educational institution shall  
27 not be paid to an individual for any week of unemployment which  
28 commences during the period between two successive academic years or  
29 between two successive academic terms within an academic year (or, when  
30 an agreement provides instead for a similar period between two regular  
31 but not successive terms within an academic year, during such period)  
32 if such individual performs such services in the first of such academic  
33 years or terms and if there is a contract or reasonable assurance that  
34 such individual will perform services in any such capacity for any  
35 educational institution in the second of such academic years or terms.  
36 Any employee of a common school district who is presumed to be  
37 reemployed pursuant to RCW 28A.405.210 shall be deemed to have a  
38 contract for the ensuing term.

1 (2) Benefits shall not be paid based on services in any other  
2 capacity for an educational institution for any week of unemployment  
3 which commences during the period between two successive academic years  
4 or between two successive academic terms within an academic year, if  
5 such individual performs such services in the first of such academic  
6 years or terms and there is a reasonable assurance that such individual  
7 will perform such services in the second of such academic years or  
8 terms: PROVIDED, That if benefits are denied to any individual under  
9 this subsection and that individual was not offered an opportunity to  
10 perform such services for the educational institution for the second of  
11 such academic years or terms, the individual is entitled to a  
12 retroactive payment of benefits for each week for which the individual  
13 filed a timely claim for benefits and for which benefits were denied  
14 solely by reason of this subsection.

15 (3) Benefits shall not be paid based on any services described in  
16 subsections (1) and (2) of this section for any week of unemployment  
17 which commences during an established and customary vacation period or  
18 holiday recess if such individual performs such services in the period  
19 immediately before such vacation period or holiday recess, and there is  
20 a reasonable assurance that such individual will perform such services  
21 in the period immediately following such vacation period or holiday  
22 recess.

23 (4) Benefits shall not be paid (as specified in subsections (1),  
24 (2), or (3) of this section) based on any services described in  
25 subsections (1) or (2) of this section to any individual who performed  
26 such services in an educational institution while in the employ of an  
27 educational service district which is established pursuant to chapter  
28 28A.310 RCW and exists to provide services to local school districts.

29 (5) As used in (~~subsection (1) of~~) this section, "academic year"  
30 means(~~(, with respect to services described in subsection (1) of this~~  
31 ~~section performed by part-time faculty at community colleges and~~  
32 ~~technical colleges))): Fall, winter, spring, and summer quarters or  
33 comparable semesters unless, based upon objective criteria including  
34 enrollment and staffing, the quarter or comparable semester is not in  
35 fact a part of the academic year for the particular institution.~~

36 **Sec. 3.** RCW 50.44.053 and 1995 c 296 s 3 are each amended to read  
37 as follows:

1       The term "reasonable assurance," as used in RCW 50.44.050, means a  
2 written, verbal, or implied agreement that the employee will perform  
3 services in the same capacity during the ensuing academic year or term  
4 as in the first academic year or term. (~~However, with respect to~~  
5 ~~services described in RCW 50.44.050(1) performed by part-time faculty~~  
6 ~~for community colleges and technical colleges, the term "reasonable~~  
7 ~~assurance" does not include an agreement that is contingent on~~  
8 ~~enrollment, funding, or program changes.)) A person shall not be  
9 deemed to be performing services "in the same capacity" unless those  
10 services are rendered under the same terms or conditions of employment  
11 in the ensuing year as in the first academic year or term.~~

12       NEW SECTION.   **Sec. 4.**   1995 c 296 s 4 (uncodified) is repealed.

13       NEW SECTION.   **Sec. 5.**   If any part of this act is found to be in  
14 conflict with federal requirements that are a prescribed condition to  
15 the allocation of federal funds to the state or the eligibility of  
16 employers in this state for federal unemployment tax credits, the  
17 conflicting part of this act is inoperative solely to the extent of the  
18 conflict, and the finding or determination does not affect the  
19 operation of the remainder of this act. Rules adopted under this act  
20 must meet federal requirements that are a necessary condition to the  
21 receipt of federal funds by the state or the granting of federal  
22 unemployment tax credits to employers in this state.

23       NEW SECTION.   **Sec. 6.**   This act is necessary for the immediate  
24 preservation of the public peace, health, or safety, or support of the  
25 state government and its existing public institutions, and takes effect  
26 immediately.

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