

HOUSE BILL ANALYSIS

HB 2615

Brief Description: Modifying the definition of wages for unemployment compensation.

Sponsors: Representatives Chandler, B. and Lisk

Hearing: January 31, 2000

Brief Summary of Bill

- Eliminates an employee's income from work-connected stock options from the definition of "wages" under the unemployment insurance law.

BACKGROUND:

Both federal and Washington unemployment insurance laws define "wages." Employer contributions under the Federal Unemployment Tax Act (FUTA) and the state unemployment insurance law are based on wages paid to employees, up to a statutory cap. In Washington, the taxable wage base is capped at 80 percent of the previous year's average covered wage. The state's unemployment benefits are calculated on the wages that an employee is paid in his or her base year.

"Wages" includes all compensation paid by an employer to an individual in its employment, including commissions, bonuses, and the cash value of non-cash compensation. "Wages" does not, however, include certain payments such as payments made on behalf of employees under retirement, sickness, or disability plans.

Some employers grant stock options to employees as part of their compensation package. Depending on the type of stock option granted and the circumstances under which the employee exercises the option, the employee may be required to report the gain as wages (taxable as ordinary income) for federal income tax purposes. (If the exercise of the stock option meets specific criteria under federal income tax law, the gain is taxed as capital gains.) When the gain must be reported as wages, it is subject to FUTA taxes. The Employment Security Department also includes such gains as wages for state unemployment insurance purposes.

In June 1999, the Employment Security Department announced that the unemployment insurance taxable wage base increased from \$24,300 in 1999 to \$26,500 for 2000. In its August 1999 issue of the LMI Review, the department noted that the 7.8 percent increase in the average covered wage for 1998 was one of the largest increases in the state's history. The department identified several reasons for this large increase, including the changes in wage distribution in high tech sectors and, to a lesser extent, in eating and drinking establishments, finance, investment, and real estate. The department noted that the largest impact resulted from wages in the prepackaged software industry, in which compensation packages commonly include stock options, and that the rise in the state's average covered wage coincided with the significant rise in these companies' stock prices.

SUMMARY OF BILL:

Beginning January 1, 2000, "wages" for purposes of contributions and benefits under the unemployment insurance law does not include an employee's income from transferring shares of stock to the employee in a disqualifying disposition under federal tax law (when the employee exercises a stock option granted in connection with employment).

RULES AUTHORITY: The bill does not contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Requested January 25, 2000.

EFFECTIVE DATE: The bill contains an emergency clause and takes effect immediately.