

SENATE BILL REPORT

SB 6323

As Reported By Senate Committee On:
Labor & Workforce Development, February 3, 2000

Title: An act relating to unfair practices with respect to eligibility for employment-based benefits.

Brief Description: Creating the employee benefits fairness act.

Sponsors: Senators Franklin, Kline and Fairley.

Brief History:

Committee Activity: Labor & Workforce Development: 1/25/2000, 2/3/2000 [DP, DNP].

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline and Wojahn.

Minority Report: Do not pass.

Signed by Senator Hochstatter.

Staff: Jill Reinmuth (786-7452)

Background: Concerns exist that part-time, temporary, leased, and other contingent workers are less likely than other workers to receive employment-based benefits. Employers may terminate employees, misclassify employees, limit contract terms, or take other action to avoid providing employment-based benefits.

Summary of Bill: It is an unfair practice for an employer to terminate or misclassify an employee to avoid providing employment-based benefits.

It is also an unfair practice for an employer to:

- limit the term of an employment contract to avoid providing benefits;
- include language in an employment contract requiring an employee to forego benefits;
or
- terminate or discriminate against an employee because the employee has filed an action alleging such an unfair practice.

Employment-based benefits— mean any benefits to which an employee is entitled under state laws or employer policies.

An employee terminated or otherwise harmed by such an unfair practice has a civil action against the employer. A prevailing employee is awarded either six months' wages or treble

the actual damages, whichever is greater. The prevailing employee is also awarded attorneys' fees and costs.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Workers employed through staffing agencies and workers employed directly may perform the same job, but receive very different benefits. They may not receive comparable health and life insurance, paid family, sick, and vacation leave, 401(k) contributions, and stock options. Some temporary agencies only process paychecks. Employers should not be allowed to manipulate employment relationships, create a two-tiered workforce, avoid providing benefits, and increase profits at the expense of workers.

Testimony Against: These concerns should be examined in the context of a study of wage and hour laws. By making employers subject to liability, an incentive for employers to hire temporary workers rather than permanent employees is created. A double standard with regard to attorneys' fees is established. New definitions of employer and employee are unnecessary. Abuses of temporary workers are especially problematic in local government.

Testified: PRO: Marcus Courtney, Barbara Judd, Washington Alliance of Technology Workers; David West, Center for a Changing Workforce/Bendich, Stobaugh & Strong, P.C.; Debbie Jordan; CON: Clif Finch, Association of Washington Business; CONCERNS: Randy Ray, Washington Association of Temporary and Staffing Services.