

HOUSE BILL REPORT

SSB 6007

As Passed House:

May 23, 2001

Title: An act relating to extending unemployment insurance coverage to employees of Indian tribes.

Brief Description: Extending unemployment insurance coverage to employees of Indian tribes.

Sponsors: By Senate Committee on Labor, Commerce & Financial Institutions (originally sponsored by Senators Prentice, Winsley, Gardner, Franklin, Fairley, Kline and Costa; by request of Employment Security Department).

Brief History:

Committee Activity:

Commerce & Labor: 3/28/01

First Special Session

Floor Activity:

Passed House: 5/23/01, 93-0.

Brief Summary of Engrossed Substitute Bill

- Extends mandatory unemployment insurance coverage to services performed in the employ of Indian tribes.
- Makes the state unemployment insurance system conform with the Federal Unemployment Tax Act (FUTA).

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority/Minority Report: None.

Staff: Jill Reinmuth (786-7134).

Background:

In 2000, Congress passed and the President signed the Indian Tribal Government Unemployment Compensation Act Tax Relief Amendments as part of the Consolidated

Appropriations Act, 2001. The amendments changed the way Indian tribes are treated under the Federal Unemployment Tax Act (FUTA). The amendments took effect December 21, 2000.

Federal law, as recently amended, requires that most services performed in the employ of Indian tribes be subject to state unemployment coverage, and exempts these services from federal unemployment taxes. Federal law also requires that tribes be permitted to reimburse the state unemployment fund for benefits paid to former employees. If a tribe fails to reimburse the fund, services performed for the tribe need not be covered for state unemployment insurance purposes, and these services are not exempt from federal unemployment taxes. If the state opts to continue covering these services, the state is prohibited from permitting the tribe to reimburse the state fund for benefits paid to former employees.

State law, as currently enacted, permits tribes to elect coverage for services performed for tribes. State law does not permit tribes to reimburse the state unemployment fund for benefits paid to former employees.

If a state maintains an unemployment insurance system in conformity with federal law, the state's employers receive a tax credit against their federal unemployment tax equal to 90 percent of the federal tax. In addition, the state receives a share of the federal unemployment tax revenues for administration of its unemployment insurance system.

Summary of Bill:

State law is amended to change the way that services performed in the employ of Indian tribes are treated for purposes of state unemployment benefits and contributions. Services performed for tribes are added to the definition of "employment," and thus, must be covered for purposes of state unemployment benefits. Tribes are permitted to elect to make payments in lieu of contributions equal to benefits paid to its former employees. A tribe must make this election in the same manner as other governmental units, must be billed for the full amount of benefits on the same schedule as other reimbursable employers, and may be required to file a surety bond or make a deposit of money or securities with the Commissioner of the Employment Security Department.

The Commissioner must revoke a tribe's option to make payments in lieu of contributions if the tribe: (1) does not make required payments within 90 days of receipt of its statement; or (2) is not in compliance with a deferred payment contract on the cut-off date.

Services performed for a tribe are not covered employment for purposes of determining both an individual's eligibility for benefits and an individual's weekly benefit amount and maximum benefits payable if the tribe: (1) does not make required payments within 180

days of receipt of its statement; or (2) is not in compliance with a deferred payment contract on the last day of the current calendar quarter.

The option to make payments in lieu of contributions and coverage of services performed for a tribe may be reinstated in specified circumstances.

The Commissioner must immediately notify the federal Internal Revenue Service and the federal Department of Labor if a tribe does not make required payments within 90 days of receipt of its statement, or if the Commissioner revokes or reinstates a tribe's option to make payments in lieu of contributions.

These changes apply retroactively to services performed on or after December 21, 2000.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Persons who work for tribes will be in covered employment for purposes of unemployment insurance. Tribes will be permitted to make payments in lieu of contributions. By acting this year, the Legislature can minimize difficulties related to retroactive application of these provisions, and can bring state law into conformity with federal law.

Testimony Against: None.

Testified: Sandra Johnson, Jamestown S'Klallam Tribe; and Paul Trause, Employment Security Department.