

SENATE BILL REPORT

SB 5316

As Passed Senate, March 10, 2001

Title: An act relating to reasonable assurance of employment for employees of educational institutions.

Brief Description: Ensuring that reasonable assurance continues to apply to employees of educational institutions.

Sponsors: Senators Prentice and Winsley; by request of Employment Security Department.

Brief History:

Committee Activity: Labor, Commerce & Financial Institutions: 1/30/01 [DP].
Passed Senate: 3/10/01, 46-2.

SENATE COMMITTEE ON LABOR, COMMERCE & FINANCIAL INSTITUTIONS

Majority Report: Do pass.

Signed by Senators Prentice, Chair; Benton, Franklin, Honeyford, Rasmussen, Regala, West and Winsley.

Staff: Joanne Conrad (786-7472)

Background: The Washington State Employment Security Department (ESD) is responsible for making unemployment insurance benefit determinations in accordance with state and federal law. The department must interpret the laws and apply the rules in an equitable and consistent manner. In addition, failure to comply with applicable federal law can result in sanctions against the state, and possible loss of federal unemployment tax credits for employers.

Community and technical colleges are increasingly making use of contingent faculty, who are hired "as needed," and do not experience the job security of tenured or tenure-track faculty. In order to determine whether or not a contingent instructor qualifies for unemployment benefits, the ESD must evaluate whether or not the instructor had "reasonable assurance" of returning to work in the next academic term, or not. This is complex.

For several years, apparent ambiguity in the statutory definition of "reasonable assurance" has made such determinations difficult for ESD, and has reportedly resulted in variable interpretations and inconsistent outcomes.

Summary of Bill: The statutory definition of "reasonable assurance" of ongoing employment is clarified. Tenured or tenure-track instructors are considered to have reasonable assurance unless notified otherwise by the college. Instructors are presumed NOT to have reasonable assurance if their employment offers are conditioned upon the college's enrollment, funding, or program changes.

Reasonable assurance determinations are made on a case-by-case basis, using a "total weight of evidence" method, with primary weight given to the contingent nature of the employment offer. Federal Department of Labor guidelines are used to interpret the law. If part of the statute conflicts with federal requirements, it is inoperative. ESD adopts rules that comply with federal requirements.

The new definition of reasonable assurance applies to work weeks beginning after March 31, 2001.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: The statute has been difficult to interpret. The agreed-upon language in the bill should help clarify ambiguities and result in fair, predictable results. It meets the federal Department of Labor requirements and should help avoid sanctions.

Testimony Against: None.

Testified: Paul Trause, Deputy Commissioner, Employment Security Department; Wendy Rader-Konofalski, Washington Federation of Teachers; Dana Rush, Ryan Morrison, part-time faculty members; Jeff Johnson, Washington State Labor Council.