

HOUSE BILL REPORT

SSB 5227

As Passed House - Amended:

April 9, 2013

Title: An act relating to the corporate officer provisions of the employment security act.

Brief Description: Changing the corporate officer provisions of the employment security act.

Sponsors: Senate Committee on Commerce & Labor (originally sponsored by Senators Schoesler, Holmquist Newbry, Delvin, Hatfield, Shin, King, Hobbs, Sheldon, Padden, Honeyford, Dammeier and Roach).

Brief History:

Committee Activity:

Labor & Workforce Development: 3/19/13, 4/3/13 [DPA].

Floor Activity:

Passed House - Amended: 4/9/13, 94-0.

Brief Summary of Substitute Bill (As Amended by House)

- Provides that the services of corporate officers are not considered services in employment for unemployment compensation purposes, unless the corporation elects to cover its officers.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Sells, Chair; Reykdal, Vice Chair; Manweller, Ranking Minority Member; Condotta, Assistant Ranking Minority Member; Green, Holy, Moeller, Ormsby and Short.

Staff: Joan Elgee (786-7106).

Background:

In 2007, following a study conducted by the Employment Security Department (Department), the Legislature modified coverage provisions for corporate officers of for-

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

profit corporations. Previously, services performed by corporate officers were not considered services in employment unless the corporation elected coverage.

Under the 2007 legislation, services performed by corporate officers are considered services in employment. However, a corporation may elect to exempt individual officers meeting certain criteria from coverage. This change from an "opt in" to an "opt out" system took effect on January 1, 2009. A different rule applies if all personal services of the corporation are performed only by corporate officers. These corporations are excluded from the definition of "employer" and "employing unit" unless the corporation registers with the Department and elects to provide coverage.

Unemployment benefits are payable to individuals who are unemployed and who meet other eligibility requirements. The general rule is that an individual, including a covered corporate officer, is unemployed if he or she performs no paid services or performs less than full-time work. A special rule enacted as part of the 2007 legislation applies to corporate officers who own 10 percent or more of a corporation's outstanding stock or who are family members of such an officer. This rule specifies that such a corporate officer is unemployed if the corporation is dissolved or if the officer permanently resigns or is permanently removed from office.

Employers must register with the Department. Registrations must include the names, social security numbers, mailing addresses, and telephone numbers of owners, partners, members, or corporate officers, and other information specified by rule. A corporation must also specify the percentage of stock ownership for each corporate officer.

Summary of Amended Bill:

Services performed by corporate officers are not considered services in employment. However, a corporation may elect coverage of officers, in which case it must cover all of its officers. If a corporation does not elect to cover its officers, the corporation must notify the officers in writing that they are ineligible for benefits. An officer remains ineligible for benefits if the corporation fails to provide the notice.

Employers are no longer required to provide the names, social security numbers, mailing addresses, and telephone numbers of owners, partners, members, or corporate officers of the business, the percentage of stock ownership for each corporate officer, and other information required by rule.

Language excluding corporations from the definition of "employer" and "employing unit" when all personal services are performed by corporate officers is eliminated.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect December 29, 2013.

Staff Summary of Public Testimony:

(In support) This is a very simple bill. Corporations opt in to workers' compensation but have to opt out of unemployment insurance. Attorneys and accountants working with small businesses report that the officers forget that they have to opt out of unemployment insurance. The bill makes corporate officer coverage for unemployment compensation and workers' compensation consistent.

(Opposed) None.

Persons Testifying: Senator Schoesler, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.