

HOUSE BILL REPORT

ESHB 1821

As Passed Legislature

Title: An act relating to unemployment compensation for persons with public employment contracts.

Brief Description: Modifying unemployment compensation for persons employed under public employment contracts.

Sponsors: By House Committee on Commerce & Labor (originally sponsored by Representatives Kessler, Buck, Quall, Carlson, Casada and Basich).

Brief History:

Committee Activity:

Commerce & Labor: 2/28/95, 3/1/95 [DPS].

Floor Activity:

Passed House: 3/13/95, 95-0.

Senate Amended.

House Refused to Concur.

Conference Committee Report Adopted.

Passed Legislature.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Lisk, Chairman; Hargrove, Vice Chairman; Thompson, Vice Chairman; Romero, Ranking Minority Member; Conway, Assistant Ranking Minority Member; Cairnes; Cody; Cole; Fuhrman; Goldsmith and Horn.

Staff: Chris Cordes (786-7117).

Background: To be considered unemployed under the unemployment insurance law, a person must be performing no services for which the person receives remuneration or must meet specific criteria as a qualified partially unemployed person.

If the person is receiving previously accrued compensation during a nonwork period, and that compensation is assigned to a specific period by an agreement with the employer, customary trade practice, or request of the person, then the compensation is considered remuneration for that period. If the payments make the person eligible

for regular fringe benefits, then the payments are considered to be assigned for that period of time. Certain payments, such as severance pay, are not considered remuneration that can be assigned to a nonwork period. These provisions concerning assignment of accrued compensation do not apply to persons employed by educational institutions.

Federal law requires the states to deny unemployment insurance benefits to certain employees who work for public and nonprofit educational institutions. Unemployment compensation may not be paid to these employees for unemployment that occurs between two successive academic years or terms if the employee has reasonable assurance that he or she will be reemployed for the same services in the next academic year or term. "Reasonable assurance" is defined as a written, verbal, or implied agreement that the employee will be reemployed in the same capacity.

In a recent Washington Court of Appeals case, the issue before the court was whether the state statute implementing this federal requirement prohibits unemployment benefits during the summer quarter for a part-time community college teacher who is reasonably assured of teaching the following term. The court held that benefits were allowed because the summer quarter was an academic term. The Employment Security Department was advised by the U.S. Department of Labor that this decision raises a federal conformity issue.

Summary of Bill:

Assignment of settlements related to public employment contracts. For unemployment insurance purposes, an individual who receives a settlement or other proceeds as a result of a negotiated settlement for termination of an employment contract with a public agency is considered to be receiving remuneration. The proceeds will be assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract. The exemption for educational institution employees from the provisions assigning remuneration is modified to include these employees in the coverage of these new assignment provisions.

Employment at educational institutions. For unemployment insurance determinations involving services by part-time faculty at community colleges and technical colleges, "academic year" means fall, winter, spring, and summer quarters or comparable semesters, unless objective criteria, including enrollment and staffing, show that the term is not in fact part of the educational institution's academic year. A statement is added that the Legislature intends this change to clarify that for the part-time faculty at two-year institutions of higher education, summer may be expected to be a time of employment, unless otherwise shown. However, this change is not intended to modify the rules applied to other educational employees.

"Reasonable assurance" for determining eligibility for benefits between successive academic years or terms for part-time faculty at community colleges and technical colleges is modified. An agreement that is contingent on enrollment, funding, or program changes is not reasonable assurance of employment in the ensuing academic year or term.

Appropriation: None.

Fiscal Note: Requested February 23, 1995.

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

Testimony For: There was a large public outcry over a case involving a public employee whose contract was bought out, but who still qualified for unemployment benefits. This is perceived as "double dipping." The statute should be changed to recognize that the compensation from the settlement of the contract was intended as salary to assist the person to transition to new employment.

Testimony Against: None.

Testified: (In favor of original bill) Representative Lynn Kessler, prime sponsor.
(Neutral) Graeme Sackrison, Employment Security Department.