

# SENATE BILL REPORT

## ESSB 6421

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As Passed Senate, February 17, 1998

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

**Brief Description:** Revising unemployment compensation for persons with public employment contracts.

**Sponsors:** Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Heavey and Winsley; by request of Employment Security Department).

**Brief History:**

**Committee Activity:** Commerce & Labor: 1/19/98, 2/2/98 [DPS, DNPS].  
Passed Senate, 2/17/98, 48-0.

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### SENATE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** That Substitute Senate Bill No. 6421 be substituted therefor, and the substitute bill do pass.

Signed by Senators Schow, Chair; Horn, Vice Chair; Anderson and Newhouse.

**Minority Report:** Do not pass substitute.

Signed by Senators Franklin, Fraser and Heavey.

**Staff:** Patrick Woods (786-7430)

**Background:** In order to receive unemployment insurance (UI) benefits in Washington, a person must be unemployed and available for work. In addition, there are specific criteria in the statute regarding any work related remuneration— that a claimant may receive for services rendered.

In certain instances employers provide financial settlements when employees are laid-off. How these settlements or severance packages are structured can affect a laid-off worker's eligibility for UI benefits. Under the existing statute, a claimant in either the public or private sector is considered to have received remuneration— and therefore denied unemployment insurance benefits if: a) the individual is receiving previously accrued compensation during a non-work period and that compensation is considered payment for that period; or b) the payments make the person eligible for regular fringe benefits. As an example, these requirements would prevent an individual that is separated from an employer but using up his or her vacation pay from receiving UI benefits.

In private sector employment certain payments, such as negotiated settlements for termination of an employment contract, may not be considered remuneration for the purposes of unemployment insurance and, if so, the claimants are eligible to receive UI benefits. However, as a result of legislative action in 1995 (SHB 1821), employees in the public sector

that receive similar severance pay arrangements are not considered eligible to receive UI benefits.

During 1997 the U.S. Department of Labor determined that this statute is potentially out of conformity with the federal unemployment law, because it treats public employees differently from those in the private sector. If Washington is found out of conformity with federal law, Washington employers will lose an estimated \$872 million in tax credits. In addition, the state will not receive approximately \$80 million in administrative funding for the Department of Employment Security.

Under state law, a corporation is required to provide unemployment insurance (UI) coverage for the members of its board of directors if: a) the board member is engaged in work activities outside of the standard board responsibilities; and b) the board member receives compensation for these specific work activities.

Unemployment insurance coverage for corporate officers is optional. However, the decision on whether to participate in the UI program is required to be uniform for all officers. A business that chooses not to provide UI coverage for its officers must inform them in writing of the decision.

**Summary of Bill:** The state's federal conformity issues regarding unemployment insurance are addressed. The unemployment insurance law is modified to provide equal treatment for public and private sector employees. As a result, public and private sector employees that receive severance pay are not eligible for unemployment insurance benefits.

Unemployment insurance coverage for corporate board members is optional. However, the decision on whether to participate in the UI program must be uniform for all board members.

**Appropriation:** None.

**Fiscal Note:** Requested on January 15, 1998.

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

**Testimony For:** The bill is needed to address a federal conformity issue.

**Testimony Against:** Instead of addressing the federal conformity issue by making public sector employees that receive payments as a part of a negotiated settlement for termination of an employment contract eligible for UI benefits, make private sector employers conform to the current standard for public employees. This will make both public and private sector employees that receive those ineligible for UI benefits.

**Testified:** Dale Zigler, ESD (pro); Norm Raffaell, Clif Finch, AWB.

**House Amendment(s):** The striking amendment modifies the bill as follows: (1) It deletes the sections pertaining to exemptions from unemployment coverage for corporate board members; (2) adds provisions that limit the unemployment eligibility requirements for public and private employees to those settlements involving individual written employment contracts; and (3) provides an effective date of the first Sunday after the Governor signs the bill.

