

# FINAL BILL REPORT

## SB 5355

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Synopsis as Enacted

**Brief Description:** Implementing the unemployment insurance integrity provisions of the federal trade adjustment assistance extension act of 2011.

**Sponsors:** Senators Holmquist Newbry, Conway, Kohl-Welles and Keiser; by request of Employment Security Department.

**Senate Committee on Commerce & Labor**  
**House Committee on Labor & Workforce Development**

**Background:** The unemployment compensation (UC) program is a federal and state program that provides wage replacement benefits to people who became unemployed through no fault of their own. Generally, federal law governs the administration of the basic program, while state law addresses the issue of eligibility for benefits and benefit levels. A state payroll tax levied on employers provides funding for benefits, and a federal tax provides administration funding for the program. If state UC laws conform to federal UC laws, states will receive federal funding to administer their UC laws, and employers in those states may credit their state tax against their federal tax. Washington is considered a conforming state.

Recent federal legislation amended a number of federal UC program requirements, posing a conformity risk for states that fail to amend state laws accordingly.

The Employment Security Department (ESD) must recover benefit overpayments from persons determined to be ineligible. ESD may settle or waive overpayments with claimants if the overpayment was not the result of fraud or fault attributable to the individual and recovery of the total amount owed would be against equity and good conscience.

An individual who knowingly makes a false statement or representation in an attempt to obtain UC benefits will be disqualified from benefits for 26 weeks. First-time offenders are not subject to any additional monetary penalties, though repeat offenders are subject to longer disqualification periods and additional penalties calculated as a percentage of the amount of benefits overpaid or deemed overpaid – 26 percent for the second violation, and 50 percent for every additional violation. The additional penalties are deposited in ESD's penalty and interest account.

Generally all UC benefits paid to claimants must be charged to the experience rating of the employer. However, certain benefit payments are not charged; rather, the benefits are

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socialized among all rate-paying employers. Benefits paid to an individual later determined to be ineligible are not charged, unless the claim became invalid due to the amendment of a report where the employer failed to report or inaccurately reported hours worked or wages paid.

**Summary:** An individual who makes a false statement or representation in an attempt to obtain UC benefits is subject to an additional penalty of 15 percent of the amount of benefits overpaid or deemed overpaid. This additional penalty, as well as the first 15 percent of the penalty imposed on repeat offenders, is deposited in the unemployment insurance trust fund.

When determining whether full recovery of an overpayment from a claimant would be against equity and good conscience, ESD must consider whether the employer or employer's agent failed to respond timely and adequately to an information request relating to the claim without good cause for the failure.

An employer may not be granted benefit charge relief for benefit payments if:

- the benefit payment was made because the employer or their agent failed to respond timely or adequately to a written request for information;
- there is no good cause for the failure to respond as determined by ESD; and
- the employer or their agent has a pattern of such failures.

A pattern exists if the employer failed to respond without good cause leading to the payment of benefits at least three times in the previous two years, or on at least 20 percent of the current claims against the employer. For employers that use agents, the actions of the agent count when determining whether the employer has a pattern of failing to respond.

**Votes on Final Passage:**

Senate	49	0	
House	89	4	(House amended)
Senate	47	0	(Senate concurred)

**Effective:** October 20, 2013.