

HOUSE BILL REPORT

HB 1445

As Reported by House Committee On:
Labor & Workplace Standards
Appropriations

Title: An act relating to making unemployment benefits accessible to persons with family responsibilities and other availability issues and making clarifying changes.

Brief Description: Making unemployment benefits accessible to persons with family responsibilities and other availability issues and making clarifying changes.

Sponsors: Representatives Gregerson, Chapman, Reeves, Sells, Doglio, Orwall, Lekanoff, Ortiz-Self, Peterson, Frame, Senn, Thai, Robinson, Lovick, Stanford, Bergquist, Jinkins, Morgan, Kilduff, Macri and Ormsby.

Brief History:

Committee Activity:

Labor & Workplace Standards: 1/31/19, 2/7/19 [DP];

Appropriations: 2/21/19, 2/26/19 [DP].

Brief Summary of Bill

- Adds unemployment insurance good cause quit provisions relating to inaccessibility of care for a child or vulnerable adult.
- Adds, as factors in determining suitable work, the claimant's typical workweek hours and the availability of caregiving for a child or vulnerable adult.
- Requires that benefits are charged only to a separating employer when the benefits result from a good cause quit due to an alteration in the claimant's work shifts to make care for a child or vulnerable adult inaccessible.

HOUSE COMMITTEE ON LABOR & WORKPLACE STANDARDS

Majority Report: Do pass. Signed by 4 members: Representatives Sells, Chair; Chapman, Vice Chair; Gregerson and Ormsby.

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.

Minority Report: Do not pass. Signed by 2 members: Representatives Chandler, Assistant Ranking Minority Member; Hoff.

Minority Report: Without recommendation. Signed by 1 member: Representative Mosbrucker, Ranking Minority Member.

Staff: Joan Elgee (786-7106).

Background:

General.

The unemployment insurance system is designed to provide partial wage replacement for workers who are unemployed. Eligible unemployed workers receive benefits based on their earnings in their base year. The base year is typically the first four of the last five completed calendar quarters. The Employment Security Department (Department) administers this system.

A claimant is eligible to receive unemployment benefits if the claimant: (1) worked at least 680 hours in the base year; (2) was separated from employment through no fault of the claimant's or quit work for good cause; and (3) is available to work and is actively searching for work.

Good Cause Quit.

A claimant may quit and maintain eligibility for benefits only under good cause quit circumstances listed in statute. These circumstances include that the claimant's usual compensation or hours were reduced by 25 percent or more or the separation was necessary to protect the claimant or immediate family member from domestic violence.

Another good cause quit circumstance is when the separation was necessary because of the illness or disability of the claimant or death, illness, or disability of an immediate family member. This good cause quit circumstance requires that the claimant: (1) pursued all reasonable alternatives to preserve his or her employment status by requesting a leave of absence, having promptly notified the employer of the reason for the absence, and having promptly requested reemployment when able to work; and (2) terminated his or her employment status and is not entitled to be reinstated to the same, comparable, or similar position.

Suitable Work.

To be available for work, a claimant must be ready, able, and willing to accept any suitable work. Suitable work is employment in an occupation in keeping with the claimant's prior work experience, education, and training, or if the claimant has no work experience, other criteria apply. In determining whether work is suitable, the Commissioner of the Department must also consider:

- the degree of risk to the claimant's health, safety, and morals;
- the claimant's physical fitness;
- the claimant's length of unemployment;
- the claimant's prospects for securing local work in the claimant's customary occupation;

- the distance of the available work from the claimant's residence; and
- other factors the Commissioner may deem pertinent.

Under the Department's rules, the claimant must be willing to work full-time, part-time, and accept temporary work during all of the usual hours and days of the week customary for the claimant's occupation.

Special rules apply to part-time workers. A part-time worker may not be denied benefits for being available and applying only for part-time work. A "part-time worker" is a claimant who earned wages in at least 40 weeks in the base year and did not work more than 17 hours in any base year weeks.

Benefit Charging.

Most employers pay contributions (payroll taxes) to finance unemployment benefits. An employer's tax rate is experience-rated so that the rate is determined, in part, by the benefits paid to its employees. Benefits are charged to base year employers on a pro rata basis according to the amount of wages paid to the claimant by the employer in the claimant's base year compared to the wages paid by all employers. Some benefits, such as those paid for certain good cause quits, are charged only to the separating employer.

Summary of Bill:

Good Cause Quit.

The good cause quit circumstance due to death, illness, or disability is modified to include the reason that care for a child or vulnerable adult in the claimant's care is inaccessible. In addition, the death, illness, or disability must be of a family member, not limited to an immediate family member. The condition that the claimant pursued all alternatives to preserve his or her employment status is changed to require that the claimant made reasonable efforts to preserve his or her employment status. Reasonable efforts means requesting changes in working conditions or work schedule, or a leave of absence, that would accommodate the death, illness, disability, or caregiving inaccessibility.

An alteration in the claimant's usual work shifts to make care for a child or vulnerable adult in the claimant's care inaccessible is added as a good cause quit.

Suitable Work.

The availability requirement is modified so that a claimant must be, for at least as many hours per week as the typical workweek hours, ready, able, and willing to accept any suitable work. The claimant's typical workweek hours and the availability of caregiving for a child or vulnerable adult in the claimant's care are added as factors in determining suitable work.

"Typical workweek hours" is defined:

- for an hourly employee, as the average number of hours worked per week, but no more than 40 hours; and
- for a salaried employee, 40 hours, regardless of the hours typically worked.

The suitable work that a claimant must be willing to accept if offered is work offered with reasonable notice from the employer.

Benefit Charging.

Benefits for a claimant qualifying for a good cause quit due to a work shift alteration are charged only to the separating employer.

Other.

Part-time work provisions are deleted.

The Commissioner of the Department must adopt rules to ensure that claimants remain attached to the labor force by seeking work in a substantial field of employment and are available for scheduling that is reasonably available in the claimant's local labor market and occupation.

Obsolete language is removed, language is updated, and a double amendment is corrected. The provisions apply, generally, beginning April 5, 2020.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 5, 6, and 8 through 10, relating to suitable work, actively seeking work, repeal of part-time work, and definitions of vulnerable adult and typical workweek hours, which take effect April 5, 2020.

Staff Summary of Public Testimony:

(In support) Current law does not take into account the caregiving needs of workers, especially women. The bill will modernize unemployment insurance. Reasonable restrictions on work hours should not result in ineligibility for unemployment. The Department says workers have to be available to work 24/7 for some occupations, which is unworkable. There are many stories across all economic and geographic backgrounds. People not available to work on Saturday's or in the evening, for example, or quitting because the worker's shift changed to the night shift, may be ineligible for unemployment. One case went to the Court of Appeals, which acknowledged the problem but stated the law requires that benefits be denied. People want to stay in the workforce. This bill will help keep families together.

(Opposed) Washington is one of the few states to remain solvent through the recession because of negotiated reforms. This bill adds an unknown number of claimants and unknown cost to the system. Small businesses will be most affected. There is an overlap with paid family and medical leave and it is premature to consider this proposal. A question is, whether meeting this need is the role of the Unemployment Trust Fund? Perhaps the Unemployment Insurance Advisory Committee should be revived to look at this issue.

Persons Testifying: (In support) Representative Gregerson, prime sponsor; John Tirpak, Unemployment Law Project; and Maggie Humphreys, MomsRising.org.

(Opposed) Bruce Beckett, Washington Retail Association; and Bob Battles, Association of Washington Business.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Cody, Dolan, Fitzgibbon, Hansen, Hudgins, Jinkins, Macri, Pettigrew, Pollet, Ryu, Senn, Springer, Stanford, Sullivan, Tarleton and Tharinger.

Minority Report: Do not pass. Signed by 14 members: Representatives Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Dye, Hoff, Kraft, Mosbrucker, Schmick, Steele, Sutherland, Volz and Ybarra.

Staff: Linda Merelle (786-7092).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Labor & Workplace Standards:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 5, 6, and 8 through 10, relating to suitable work, actively seeking work, repeal of part-time work, and definitions of vulnerable adult and typical workweek hours, which take effect April 5, 2020.

Staff Summary of Public Testimony:

(In support) The current unemployment insurance model does not consider the needs of caretakers. This bill makes several small tweaks to current law. It offers unemployment benefits to workers who quit because of scheduling issues that makes their care inaccessible, but who are otherwise able, available, and willing to work. This bill also updates how the Employment Security Department determines whether or not an individual is able and available. Under current guidance, almost 40 percent of workers in Washington are in jobs classified as requiring 24/7 availability. Families in our state are unable to access unemployment benefits when they need them most. Unemployment insurance provides a vital safety net for families when individuals are between jobs.

(Opposed) There is concern that this is not an appropriate use for the Unemployment Insurance Trust Fund (Trust Fund). Past efforts ensured benefits are paid to workers and that costs are equitably distributed among employers. As a result, the Trust Fund remained solvent during the last recession and the state was able to increase benefits without a federal loan. This bill would add a new class of claimants if employers cannot accommodate their caretaking needs, of which small businesses will be especially vulnerable. There was a previous process where business and labor looked at data and reviewed policy proposals. That process could be reinstated to look at ideas like those in the current bill.

Persons Testifying: (In support) Pamela Crone, Unemployment Law Project; and Maggie Humphreys, MomsRising.org.

(Opposed) Bruce Beckett, Washington Retail Association.

Persons Signed In To Testify But Not Testifying: None.