

# SENATE BILL REPORT

## SB 5176

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As Reported by Senate Committee On:  
Labor & Commerce, January 24, 2023

**Title:** An act relating to unemployment insurance benefits for officers of employee-owned cooperatives.

**Brief Description:** Concerning unemployment insurance benefits for officers of employee-owned cooperatives.

**Sponsors:** Senators Stanford, Billig, Keiser and Van De Wege.

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/19/23, 1/24/23 [DPS].

**Brief Summary of First Substitute Bill**

- Exempts officers of employee cooperative corporations, cooperative associations, and limited cooperative associations, when covered for unemployment insurance (UI) purposes, from special rules for certain officers to be considered unemployed for UI purposes.
- Provides that these officers, when covered for UI, will not be considered to be performing services for the purposes of the definition of "unemployed" by acting only as an officer.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 5176 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, MacEwen, Robinson, Schoesler and Stanford.

**Staff:** Susan Jones (786-7404)

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

**Background: General.** An unemployed individual is eligible to receive unemployment insurance (UI) benefits under certain circumstances.

**Unemployment Insurance Coverage for Corporate Officers.** Generally, corporate officers appointed under the Washington Business Corporations Act are automatically exempt from UI coverage unless the employer corporation specifically elects to cover all of them (opt in). A corporate employer not opting in must provide written notice to the corporate officers that they are ineligible for UI benefits. Employee cooperative corporations appoint their corporate officers under this act, and their officers are exempt from UI coverage unless the employer opts in. Cooperative associations and limited cooperative associations do not appoint their corporate officers under the act, and their officers are covered for UI.

**Unemployed Definition.** An individual is generally considered unemployed in any week during which the individual performs no services and with respect to which no remuneration is payable to the individual.

**Special Rules for Certain Corporate Officers.** A covered officer of a corporation—when the corporation opted in, who owns 10 percent or more of the corporate stock, must meet special requirements to be considered unemployed and therefore eligible for UI benefits. The covered officer is considered unemployed in any week upon dissolution of the corporation or if the officer permanently resigns or is permanently removed from their appointment and responsibilities with that corporation, or if the corporate officer's covered base year wages with that corporation are less than 25 percent of the officer's total covered base year wages. The special requirements apply to covered officers of employee cooperatives and cooperative associations, because they are defined as corporations. The special requirements do not apply to covered officers of limited cooperative associations, because they are defined as unincorporated associations.

**Summary of Bill (First Substitute): Special Rules Inapplicable.** The special rules for certain officers to be unemployed for UI purposes does not apply to officers of employee cooperative corporations, cooperative associations, and limited cooperative associations, if covered for UI purposes. These officers, when covered for UI, will not be considered to be performing services for the purposes of the definition of unemployed by acting only as a officer.

**EFFECT OF CHANGES MADE BY LABOR & COMMERCE COMMITTEE (First Substitute):**

- Keeps current law that employee cooperative corporations' officers are exempt from UI coverage unless the co-op opts in for UI coverage for its officers.
- Removes option for cooperative associations and limited cooperative associations to opt out of automatic UI coverage for officers.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** The bill takes effect on January 1, 2024.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The motivation for the bill is an employee co-op that is currently unable to participate in the unemployment program. The point is to allow co-ops to participate in the unemployment insurance benefits program.

OTHER: ESD is helping clarify some of the details in the bill. There are currently rules that apply to owners of C or S corporations have special rules that impact affect their ability to qualify for unemployment insurance if they are laid off. The intention of this bill is that if employees of a co-operative owned business become laid off, they may file for unemployment insurance benefits like everyone else. There are three types of employee-owned cooperatives. This bill will treat employee cooperative corporations, limited cooperative associations, and cooperative associations the same.

**Persons Testifying:** PRO: Senator Derek Stanford, Prime Sponsor.

OTHER: Caitlyn Jekel, Employment Security Department.

**Persons Signed In To Testify But Not Testifying:** No one.