

**SENATE BILL REPORT**

**ESSB 5702**

**AS PASSED SENATE, MARCH 16, 1993**

**Brief Description:** Regulating unemployment insurance.

**SPONSORS:** Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice, Wojahn and Franklin; by request of Employment Security Department)

**SENATE COMMITTEE ON LABOR & COMMERCE**

**Majority Report:** That Substitute Senate Bill No. 5702 be substituted therefor, and the substitute bill do pass.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Fraser, McAuliffe, Pelz, Sutherland, and Vognild.

**Staff:** Dave Cheal (786-7576)

**Hearing Dates:** February 22, 1993; March 2, 1993

**HOUSE COMMITTEE ON COMMERCE & LABOR**

**BACKGROUND:**

An employee who is discharged for misconduct relating to the job is not eligible for unemployment benefits. "Misconduct" is not defined in the statute or regulations. A recent Supreme Court definition is quite broad and does not require intent or harm to the employer's business.

Deductions are made from unemployment benefits if the individual is receiving federal Social Security pension benefits.

A worker injured on the job who has recovered and is attempting to reenter the workforce is entitled to unemployment benefits if they are unable to find work. A person injured while not on the job is not entitled to those benefits. Currently, only employers for whom individuals worked during their employment base period, or their last employer is entitled to claimant information from the department. The Department of Employment Security is required to provide nonfederal funds to resolve any federal noncompliance or audit claims. The current procedure requires that the claim be paid in cash from the department's administrative contingency fund.

Workers who voluntarily quit without good cause, who are discharged for misconduct, or who fail to accept or apply for available work are not eligible for benefits until they obtain work and earn at least their benefit amount in five separate calendar weeks.

An individual whose employment is terminated because of a felony or gross misdemeanor conviction or admission is disqualified from receiving benefits for which base year credits are earned in any employment prior to discharge.

The maximum weekly benefit under unemployment insurance is 60 percent of the state average wage as calculated by the department. Currently, the maximum benefit is \$272.

Extended benefits are paid to eligible claimants when unemployment reaches a certain level. This trigger level has not been reached since 1983. Federal law provides an optional state trigger that may be used.

The unemployment insurance experience rating system provides for relief of benefit charges to employers in a variety of circumstances.

Unemployment insurance taxes are assessed based on two criteria: (1) level of money in the trust fund; and (2) employer experience rating. As the fund increases or decreases, a series of six tax schedules ranging from A to F go into effect. The lowest tax schedule, schedule A, is in effect when the fund balance is in excess of 3.4 percent of total taxable payrolls in the state (\$1.3 billion). Experience rating is determined by the level of unemployment benefits paid out to the employees of a particular employer over a four-year period.

**SUMMARY:**

"Misconduct" is defined to require a willful act which causes harm to the employer's business. The current Social Security pension offset from benefits provision is removed.

Workers who are injured off the job who are unable to find work after they recover from their injury are eligible for unemployment benefits, as well as those who are injured on the job. Employers are granted access to information relating to any decision to allow or deny benefits if: (a) the decision is based on employment or job offer by that employer; or (b) the decision is based on material information provided by the employer.

The Department of Employment Security must resolve federal compliance or audit claims under the following priority: (1) provide services to eligible claimants or individuals within the state; (2) provide substitute services or program support; (3) make payment of funds to the federal government. Following a disqualifying termination from employment, the requalification requirements are changed to five calendar weeks and having earned five times the worker's weekly benefit amount. In considering various potentially disqualifying separations, only the most recent work can be considered.

Hourly wage credit cancellation resulting from criminal conduct is limited to the employment at the time of the criminal conduct.

The maximum weekly benefit is increased to 70 percent of the average weekly wage. Interest payments of 1 percent per month are imposed on all outstanding overpayments that are due to fraud.

The optional trigger allowed by federal law which determines the payment of extended benefits is adopted, effective October 2, 1993.

The conditions and circumstances under which an employer is provided relief from benefits charges to their experience rating are reordered. A new "AA" tax schedule is added which provides lower tax rates to most rate classes when the trust fund balance ratio is at 3.90 and above.

Delinquent employers are assigned a rate class which is 2/10 of 1 percent higher than the highest rate class of nondelinquent employers.

An unemployment insurance task force is established composed of legislators and others to study certain listed issues. Their report is to be complete by December 31, 1993. The cost of the task force is funded by a surtax of 1/100 of 1 percent surtax on all employers for the first calendar quarter of 1994.

Separate effective dates are provided for various sections of the act.

**Appropriation:** none

**Revenue:** none

**Fiscal Note:** requested

**TESTIMONY FOR:**

The Department of Employment Security requests the passage of the substitute bill to provide disincentives for employees who fraudulently claim unemployment benefits and employers that are delinquent on payment of unemployment taxes, and to streamline and enhance the ability of employees to requalify for unemployment benefits.

**TESTIMONY AGAINST:**

The testimony against the proposed substitute outlined concerns regarding the fiscal impact on the unemployment trust fund and expanding the use of unemployment insurance benefits.

**TESTIFIED:** Gary Smith, Independent Business Association; Nat Jackson, Nat Jackson & Associates (con); Clif Finch, AWB; Dale Tuvey, United Claim Management (con); Rick Slunaker, Associated General Contractors (con); Graeme Sacrison, Department of Employment Security (pro)

**HOUSE AMENDMENT(S):**

The amendment deletes a direction to the Department of Employment Security to review only the claimant's last separation from employment in determining qualification of benefits. The addition of "transportation and distance to work" as factors to consider in determining whether a claimant quit work voluntarily without good cause is deleted. It clarifies that if a claimant quits work to relocate with his or her spouse, the relocation must be for spouse's employment outside the labor market area.

Other amendments delete obsolete language and make technical corrections.