

FINAL BILL REPORT

ESHB 1821

C 296 L 95

Synopsis as Enacted

Brief Description: Modifying unemployment compensation for persons employed under public employment contracts.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Kessler, Buck, Quall, Carlson, Casada and Basich).

House Committee on Commerce & Labor
Senate Committee on Labor, Commerce & Trade

Background: To be considered unemployed under the unemployment insurance law, a person either must be performing no services for remuneration or must be a qualified partially unemployed person.

If the person is receiving previously accrued compensation during a nonwork period, and that compensation is assigned to a specific period by an agreement with the employer, customary trade practice, or request of the person, then the compensation is considered remuneration for that period. If the payments make the person eligible for regular fringe benefits, then the payments are considered to be assigned for that period of time. Certain payments, such as severance pay, are not considered remuneration that can be assigned to a nonwork period. These provisions concerning assignment of accrued compensation do not apply to persons employed by educational institutions.

Federal law requires the states to deny certain unemployment insurance benefits to instructional and administrative employees who work for public and nonprofit educational institutions. These employees may not receive benefits for unemployment that occurs between two successive academic years or terms if the employee has reasonable assurance that he or she will be reemployed for the same services in the next academic year or term. "Reasonable assurance" is defined as a written, verbal, or implied agreement that the employee will be reemployed in the same capacity.

In a recent Washington Court of Appeals case, the issue before the court was whether the state statute implementing this federal requirement prohibits unemployment benefits during the summer quarter for a part-time community college teacher who is reasonably assured of teaching the following term. The court held that benefits were allowed because the summer quarter was an academic term. The Employment

Security Department was advised by the U.S. Department of Labor that this decision raises a federal conformity issue.

Summary:

Assignment of settlements related to public employment contracts. For unemployment insurance purposes, an individual who receives a settlement or other proceeds as a result of a negotiated settlement to terminate an employment contract with a public agency is considered to be receiving remuneration. The proceeds will be assigned in the same intervals and in the same amount for each interval as compensation was allocated under the contract. The exemption of educational institution employees from the provisions assigning remuneration is modified so that these employees are covered by these new assignment provisions.

Employment at educational institutions. For unemployment insurance determinations involving services by part-time faculty at community colleges and technical colleges, "academic year" means fall, winter, spring, and summer quarters or comparable semesters, unless objective criteria, including enrollment and staffing, show that the term is not in fact part of the educational institution's academic year. A statement is added that the Legislature intends this change to clarify that for the part-time faculty at two-year institutions of higher education, summer may be expected to be a time of employment, unless otherwise shown. However, this change is not intended to modify the rules applied to other educational employees.

"Reasonable assurance" for determining eligibility for benefits between successive academic years or terms for part-time faculty at community colleges and technical colleges is modified. An agreement that is contingent on enrollment, funding, or program changes is not reasonable assurance of employment in the ensuing academic year or term.

Votes on Final Passage:

House	95	0	
Senate	45	0	(Senate amended)
House			(House refused to concur)

Conference Committee

Senate	45	0
House	91	0

Effective: May 9, 1995