

# HOUSE BILL REPORT

## ESSB 6421

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**As Reported By House Committee On:**  
Commerce & Labor

**Title:** An act relating to unemployment compensation for persons with public employment contracts.

**Brief Description:** Revising unemployment compensation for persons with public employment contracts.

**Sponsors:** Senate Committee on Commerce & Labor (originally sponsored by Senators Schow, Heavey and Winsley; by request of Employment Security Department).

**Brief History:**

**Committee Activity:**

Commerce & Labor: 2/25/98, 2/26/98 [DPA].

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass as amended. Signed by 8 members: Representatives McMorris, Chairman; Honeyford, Vice Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Hatfield and Lisk.

**Staff:** Chris Cordes (786-7103).

**Background:** To be considered "unemployed," an unemployment insurance claimant must either be performing no services for compensation or be partially unemployed. A partially unemployed claimant's benefits are subject to deduction for the claimant's earnings.

Some previously accrued compensation received by an unemployed person is also deducted from unemployment benefits. For example, if the previously accrued 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 pay for the specific period and is deducted from benefits. Certain payments, such as severance pay, are not considered compensation that is deducted from benefits. However, a person who receives proceeds under a negotiated settlement to terminate an employment contract with a public agency before the contract's expiration date is considered to be receiving compensation. The proceeds are assigned in the same manner

as compensation was allocated under the employment contract and are deducted from benefits.

The U.S. Department of Labor has questioned whether this requirement for settlements of public employment contracts is in conformity with the federal law requiring states to provide benefits to public and private sector employees on the same terms and subject to the same conditions.

**Summary of Bill:** The reference to "public agencies" is deleted from the provision requiring assignment, as compensation for unemployment insurance purposes, of proceeds received under a negotiated settlement for the early termination of an employment contract. (Therefore, the assigned proceeds will be deducted from unemployment benefits for claimants in both the public and private sector.) These provisions apply to employment contracts that are individual written contracts.

**Amended Bill compared to Engrossed Substitute Bill:** The striking amendment (1) deletes the provisions of the engrossed substitute bill exempting members of corporate boards of directors from unemployment insurance coverage; (2) adds language limiting the assignment of settlement proceeds to the settlements involving individual written employment contracts; and (3) makes the bill effective on the first Sunday after the Governor signs the bill.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill contains an emergency clause and takes effect on the first Sunday after the Governor signs the bill.

**Testimony For:** The federal government has notified the Employment Security Department that the 1995 law addressing settlements of employment contracts with public agencies may be out of conformity with federal unemployment law because it carves out an exception for public employees. This bill addresses that issue by making the law apply in both the public and private sector. Language could be added to clarify that these changes do not apply to employment governed by collective bargaining agreements or at-will employment, but only to written contracts made on an individual basis.

**Testimony Against:** The addition of exemptions for members of corporate boards of directors raises concern about abuse of the unemployment insurance system. This exemption could create a large loophole for corporations to create director positions for their employees to avoid covering the employees under unemployment insurance. The bill should be amended to remove this exemption.

**Testified:** (In support of substitute bill, neutral on amendment) Graeme Sackrison, Employment Security Department and Clif Finch, Association of Washington Business. (In support with House amendment) Gary Smith, Independent Business Association; Dan Sexton, Washington Building and Construction Trades Council; and Jeff Johnson, Washington State Labor Council.