

# HOUSE BILL ANALYSIS

## HB 2251

**Brief Description:** Determining compensation eligibility for educational employees.

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**Sponsors:** Representatives Huff, Clements, and Carlson

Hearing: March 24, 1997

### **BACKGROUND:**

Under the Federal Unemployment Tax Act (FUTA), if a state maintains an unemployment insurance system in conformity with federal law, that state's employers receive a tax credit against their federal unemployment tax of 90 percent of the federal tax. In addition, the conforming state receives a share of the FUTA revenues for administration of its unemployment insurance systems.

One of the requirements of federal law addresses unemployment benefits for certain public and nonprofit institutions' educational employees. Unemployment compensation may not be paid to these employees 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. Until 1995, Washington's unemployment insurance statutes included language that was the same as federal law.

In 1994, the Washington Court of Appeals held that, in view of the state's failure to show that summer quarter was qualitatively different from other academic terms and with no indication that the Legislature intended summer quarters to be "off" quarters, unemployment benefits could not be denied during the summer for a part-time community college faculty member who was not offered a position during the summer quarter. Following that decision, the U.S. Department of Labor (USDOL) advised the Employment Security Department that the court's opinion raised a federal conformity issue.

The following year, legislation was enacted that amended the requirements for unemployment insurance determinations involving part-time faculty at community colleges and technical colleges. For these faculty, the definition of "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.

For determining eligibility for benefits between successive academic years or terms for these part-time faculty, the 1995 law provides that "reasonable assurance" does not include an agreement to provide services when the agreement is contingent on enrollment, funding, or program changes.

The USDOL has again advised the Employment Security Department that this legislation raises a federal conformity issue because the law does not apply the same provisions to all educational employees.

**SUMMARY OF BILL:**

The provisions used for determining unemployment benefits for part-time faculty at community and technical colleges are amended. First, the definition of "academic year" is repealed that includes summer quarter or semester as part of the academic year, unless objective criteria show otherwise. Second, the provision is repealed that excludes agreements contingent on enrollment, funding, or program changes from those agreements that constitute "reasonable assurance."

A new definition is added that applies to all educational employees and provides that "academic year" does not include the summer quarter or semester unless, based on objective criteria, the summer quarter or semester is in fact a part of the academic year for the particular institution.

**RULES AUTHORITY:** The bill does not contain provisions addressing the rule-making powers of an agency.

**FISCAL NOTE:** Not requested.

**EFFECTIVE DATE:** Ninety days after adjournment of session in which bill is passed.