

HOUSE BILL ANALYSIS

HB 2947

Brief Description: Revising unemployment compensation for part time faculty.

Sponsors: Representatives McMorris and Conway; by request of Employment Security Department.

Hearing: February 2, 1998

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 system.

One of the requirements of federal law addresses unemployment benefits for certain public and nonprofit educational institutions' 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 re employed 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 re employed 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 faculties at community colleges and technical colleges. For these faculties, 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 faculties, 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. The Secretary of Labor has notified the Employment Security Department that she is commencing conformity proceedings against the state of Washington. The Employment Security Department has requested a hearing on this matter.

SUMMARY OF BILL:

The definition of "academic year" is changed so that summer quarter or semester is not considered part of the academic year unless, based on objective criteria, the summer quarter or semester is in fact a part of the academic year for the particular institution. This definition applies to all educational employees. This changes the definition of academic year— that was previously applied to community and technical college faculties.

The provision that defines what is not reasonable assurance— now applies to all educational employees rather than just community and technical college faculties. Reasonable assurance— does not include agreements that are contingent on funding, enrollment or program changes.

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

FISCAL NOTE: Requested on January 28, 1998.

EFFECTIVE DATE: This bill contains an emergency clause and takes effect immediately.