

# HOUSE BILL ANALYSIS

## ESSB 6421

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

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**Sponsors:** Senators Schow, Heavey, and Winsley.

Hearing: February 25, 1998

### **BACKGROUND:**

#### **Negotiated Settlements for Termination of Public Employment Contracts**

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.

#### **Coverage of Corporate Officer and Directors**

Employers pay unemployment insurance taxes under both state and federal law. When an employer pays state unemployment contributions on the services of an employee covered

under the federal law, the employer receives a credit against his or her federal unemployment tax.

A corporate officer or a member of a corporation's board of directors is covered under federal law if the person is also a compensated employee of the corporation. Under Washington law, corporate officers are not covered for unemployment insurance unless the corporation elects to cover all of its corporate officers. If the corporation does not elect to cover its corporate officers, the corporate officers must be informed in writing that they are not eligible for unemployment insurance. This exemption does not expressly include members of the corporation's board of directors.

If a corporation does not elect to cover its employed corporate officers under Washington law, the corporation will not be eligible for the credit against their federal unemployment tax, but will be required to pay 100 percent of the federal tax on the covered wages of their corporate officers.

## **SUMMARY OF BILL:**

### **Negotiated Settlements for Termination of Public Employment Contracts**

The reference to "public agencies" is deleted from the provision requiring assignment, as compensation, 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.

### **Coverage of Corporate Officer and Directors**

Members of corporate boards of directors are added to the provisions exempting corporate officers from unemployment insurance coverage. Corporations may elect to cover not less than all of the members of its board of directors. This change in coverage of corporate boards of directors applies retroactively to administrative tax claims currently pending before the Employment Security Department for claims incurred after March 1, 1992.

**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.