

SENATE BILL REPORT

SB 5583

As Reported By Senate Committee On:
Labor & Workforce Development, February 11, 1999

Title: An act relating to unfair practices with respect to eligibility for employment-based benefits.

Brief Description: Prohibiting employers from not providing benefits to employees.

Sponsors: Senators Franklin, Fairley and Kline.

Brief History:

Committee Activity: Labor & Workforce Development: 2/4/99, 2/11/99 [DPS, DNPS].

SENATE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5583 be substituted therefor, and the substitute bill do pass.

Signed by Senators Fairley, Chair; Franklin, Vice Chair; Kline and Wojahn.

Minority Report: Do not pass substitute.

Signed by Senators Hochstatter and Oke.

Staff: Jill Reinmuth (786-7452)

Background: Under state laws and employer policies, part-time, temporary, leased, and other contingent workers are less likely than other workers to receive employment-based benefits. Employers may terminate employees, misclassify employees, limit contract terms, or take other action with the intent to avoid providing employment-based benefits.

Summary of Substitute Bill: It is an unfair practice for any employer to: (1) terminate any employee or limit the term of a contract with any employee with the intent to avoid providing employment-based benefits; (2) misclassify any employee with the intent to avoid providing employment-based benefits; (3) include any language in a contract with an employee that requires the employee to forego employment-based benefits; or (4) terminate or in any manner discriminate against an employee because the employee has filed an action alleging such an unfair practice.

Employment-based benefits— mean any benefits to which an employee is entitled under state laws or employer policies.

Any employee terminated or otherwise harmed by such an unfair practice has a civil action against the employer. A prevailing employee is awarded either six months' wages or treble the actual damages, whichever is greater. The prevailing employee is also awarded attorneys' fees and costs.

Substitute Bill Compared to Original Bill: It is also an unfair practice to: (1) misclassify any employee with the intent to avoid providing employment-based benefits; or (2) terminate or in any manner discriminate against an employee because the employee has filed an action alleging such an unfair practice.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: The number of people who have health care coverage and pension coverage is declining. The costs of health care and pensions will fall on the backs of publicly-funded institutions. Making it an unfair practice for employers to terminate employees or limit contracts with employees with the intent to avoid providing employment-based benefits begins to address this problem.

Testimony Against: A new liability risk for employers who hire permanent employees is created. An incentive for employers to hire independent contractors rather than permanent employees is created. A double standard with regard to attorneys' fees is established. Employers would incur significant costs defending actions alleging such an unfair practice.

Testified: PRO: Robert Stern, Washington State Labor Council; CON: Clif Finch, Association of Washington Business; Gary Smith, Independent Business Association.