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**SENATE BILL 5264**

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**State of Washington**

**57th Legislature**

**2001 Regular Session**

**By** Senators Prentice, Fraser, Patterson, Costa, Shin, Kline, Kohl-Welles, Constantine, Jacobsen, Winsley and Gardner

Read first time 01/17/2001. Referred to Committee on Labor, Commerce & Financial Institutions.

1 AN ACT Relating to unfair practices by public employers with  
2 respect to eligibility for employment-based benefits; adding a new  
3 section to chapter 49.44 RCW; and creating new sections.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature intends that public  
6 employers be prohibited from terminating employees, misclassifying  
7 employees, limiting their contracts, or taking other action to avoid  
8 providing or continuing to provide employment-based benefits to which  
9 employees are entitled under state law or employer policies.

10 NEW SECTION. **Sec. 2.** A new section is added to chapter 49.44 RCW  
11 to read as follows:

12 (1) It is an unfair practice for any public employer to:

13 (a) Terminate any employee to avoid providing or continuing to  
14 provide employment-based benefits to which the employee would become or  
15 is entitled under any state law or any employer policy;

16 (b) Misclassify any employee to avoid providing or continuing to  
17 provide employment-based benefits to which the employee would become or  
18 is entitled under any state law or any employer policy;

1 (c) Limit the term of a contract with an employee to avoid  
2 providing employment-based benefits to which the employee would become  
3 entitled under any state law or any employer policy;

4 (d) Include any other language in a contract with an employee that  
5 requires the employee to forego employment-based benefits to which the  
6 employee would become or is entitled under any state law or any  
7 employer policy; or

8 (e) Terminate or in any manner discriminate against an employee  
9 because the employee has filed or communicated to the employer an  
10 intent to file an action alleging a violation of this subsection.

11 (2) The definitions in this subsection apply throughout this  
12 section unless the context clearly requires otherwise.

13 (a) "Employee" means a person who is providing services for  
14 compensation to an employer, unless the person is free from the  
15 employer's direction and control over the performance of work. This  
16 definition shall be interpreted consistent with common law.

17 (b) "Employment-based benefits" means any benefits to which an  
18 employee may become or is entitled under any state law or any employer  
19 policy.

20 (c) "Public employer" means: (i) Any unit of local government  
21 including, but not limited to, a county, city, town, municipal  
22 corporation, quasi-municipal corporation, or political subdivision; and  
23 (ii) the state, state institutions, and state agencies. This  
24 definition also shall be interpreted consistent with common law.

25 (3) Any employee deeming himself or herself terminated or otherwise  
26 harmed in violation of subsection (1) of this section may bring a civil  
27 action in a court of competent jurisdiction. If the employee prevails,  
28 he or she shall be awarded:

29 (a) Either six months' wages or treble the actual damages sustained  
30 by the employee as a result of being terminated or otherwise harmed in  
31 violation of subsection (1) of this section, whichever is greater;

32 (b) Costs of suit or arbitration; and

33 (c) Reasonable attorneys' fees.

34 NEW SECTION. **Sec. 3.** This act shall be construed liberally for  
35 the accomplishment of the purposes thereof.

36 NEW SECTION. **Sec. 4.** If any provision of this act or its  
37 application to any person or circumstance is held invalid, the

1 remainder of the act or the application of the provision to other  
2 persons or circumstances is not affected.

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