

5264-S

Sponsor(s): Senate Committee on Ways & Means (originally sponsored by Senators Prentice, Fraser, Patterson, Costa, Shin, Kline, Kohl-Welles, Constantine, Jacobsen, Winsley and Gardner)

Brief Description: Prohibiting public employers from misclassifying employees to avoid providing benefits.

SB 5264-S.E - DIGEST

(DIGEST AS ENACTED)

Declares an intent that public employers be prohibited from misclassifying employees, or taking other action to avoid providing or continuing to provide employment-based benefits to which employees are entitled under state law or employer policies or collective bargaining agreements applicable to the employee's correct classification.

Does not mandate that any public employer provide benefits to actual temporary, seasonal, or part-time employees beyond the benefits to which they are entitled under state law or employer policies or collective bargaining agreements applicable to the employee's correct classification.

Provides that public employers may determine eligibility rules for their own benefit plans and may exclude categories of workers such as "temporary" or "seasonal," so long as the definitions and eligibility rules are objective and applied on a consistent basis.

Declares that objective standards, such as control over the work and the length of the employment relationship, should determine whether a person is an employee who is entitled to employee benefits, rather than the arbitrary application of labels, such as "temporary" or "contractor." Common law standards should be used to determine whether a person is performing services as an employee, as a contractor, or as part of an agency relationship.

Does not modify any statute or policy regarding the employment of: Public employee retirees who are hired for postretirement employment as provided for in chapter 41.26, 41.32, 41.35, or 41.40 RCW or who work as contractors; or enrolled students who receive employment as student employees or as part of their education or financial aid.

Declares that it is an unfair practice for any public employer to: (1) Misclassify any employee to avoid providing or continuing to provide employment-based benefits; or

(2) Include any other language in a contract with an employee that requires the employee to forgo employment-based benefits.

Provides that an employee deeming himself or herself harmed in violation of this act may bring a civil action in a court of competent jurisdiction.