

HOUSE BILL REPORT

HB 2553

As Reported by House Committee On:
Commerce & Labor

Title: An act relating to improving unemployment benefits.

Brief Description: Addressing unemployment benefits for certain eligible individuals.

Sponsors: Representatives Conway, Green, White, Appleton, Simpson, Ormsby, Moeller and Roberts.

Brief History:

Committee Activity:

Commerce & Labor: 1/13/10, 2/2/10 [DPS].

Brief Summary of Substitute Bill

- Provides that an individual is not disqualified from receiving unemployment benefits if he or she leaves work because continuing in employment would work an unreasonable hardship on the individual.
- Provides that an individual may not be denied benefits solely because he or she seeks only part-time work, so long as the part-time work is for at least 17 hours per week.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Conway, Chair; Wood, Vice Chair; Green, Moeller and Williams.

Minority Report: Do not pass. Signed by 3 members: Representatives Condotta, Ranking Minority Member; Chandler and Crouse.

Staff: Jill Reinmuth (786-7134).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

An individual is eligible to receive unemployment benefits if he or she: (1) worked at least 680 hours in covered employment in his or her base year; (2) was separated from employment through no fault of his or her own or quit work for good cause; and (3) is able to work and is actively searching for suitable work.

Voluntary Quits.

If an individual quits work without good cause, he or she is disqualified from benefits. The disqualification is for seven weeks and until the individual earns wages in covered employment equal to seven times his or her weekly benefit amount.

An individual has good cause and is not disqualified from benefits if he or she quit work for one of 11 reasons listed in the voluntary quit section, but not for other reasons. The 11 reasons are:

- to accept other work;
- illness or disability, so long as the individual is not entitled to reinstatement;
- to relocate for the employment of a spouse or domestic partner;
- to protect the claimant or an immediate family member from domestic violence or stalking;
- a reduction of 25 percent or more in compensation;
- a reduction of 25 percent or more in hours;
- a change in the worksite that causes increased distance or difficulty of travel;
- deterioration of work site safety;
- illegal activities on the worksite;
- a change in the individual's usual work that violates his or her religious convictions or sincere beliefs; or
- to enter certain apprenticeship programs.

Part-Time Work Search.

"Suitable work" is employment in an occupation in keeping with the individual's prior work experience, education, or training (unless such work is not available in the general area). For most workers, "suitable work" is full-time. For part-time workers, however, "suitable work" includes work for 17 or fewer hours per week. "Part-time workers" are defined as those workers who earn wages in at least 40 weeks of the base year and who do not earn wages in more than 17 hours per week in any weeks of the base year.

States with unemployment insurance laws that provide for no denial of benefits to part-time workers seeking only part-time work may qualify to receive modernization incentive payments under the federal American Recovery and Reinvestment Act of 2009. One-third of an incentive payment is contingent on state law providing for an alternative base period. Two-thirds is contingent on state law providing for at least two of the following:

- no denial of benefits to part-time workers seeking only part-time work;
- no disqualification from benefits for separating from employment for certain compelling family reasons;
- continuation of weekly benefits for exhaustees in state-approved training; or

- dependents' allowances of at least \$15 per dependent per week.

Washington received one-third of the incentive payment, approximately \$49 million, but has not qualified to receive the other two-thirds of the incentive payment.

Summary of Substitute Bill:

The Legislature makes findings about the fundamental purposes of the unemployment insurance system and the need to improve eligibility requirements, disqualification provisions, and benefit amounts.

Voluntary Quits.

An individual is not disqualified from benefits if he or she quit work for one of 11 reasons listed in the voluntary quit section. References to "good cause" and other language limiting good cause reasons to the listed reasons are omitted.

An individual also is not disqualified from benefits if he or she quit work because continuing in employment would work an unreasonable hardship on the individual. "Unreasonable hardship" means a result not due to the individual's voluntary action that would cause a reasonable person to leave that employment. The individual must show that:

- he or she left work primarily for work-connected reasons;
- the work-connected reasons were of such a compelling nature they would have caused a reasonably prudent person to leave work; and
- reasonable alternatives were exhausted before leaving work (unless that would have been futile).

These changes apply to separations that occur on or after July 4, 2010.

References to the voluntary quit section in the experience rating section are changed to preserve the manner in which benefits are noncharged or charged only to the separating employer's experience rating account.

Part-Time Work Search.

An individual may not be denied benefits for any week solely because he or she seeks, applies for, or accepts only part-time work, so long as the part-time work is for at least 17 hours per week.

These changes apply to claims with an effective date on or after January 2, 2011.

Substitute Bill Compared to Original Bill:

The part-time work search provisions apply to claims with an effective date on or after January 2, 2011 (instead of separations that occur on or after July 4, 2010). Cross-references to other sections of the Employment Security Act are corrected.

Appropriation: None.

Fiscal Note: Available. New fiscal note on the substitute bill requested on February 2, 2010.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill will enable the state to obtain the modernization incentive payment. The bill also gives the Employment Security Department (Department) flexibility to examine voluntary quits.

The bill allows any worker to search for part-time work. Even if an individual was working full-time, there are good reasons why he or she might look for part-time work. The requirement that a person who worked more than 17 hours in any week must look for full-time work is not reasonable or rational. In this economy, employers are filling part-time positions. For many unemployed workers, their only option is to look for part-time work.

The bill also restores the Department's ability to evaluate an individual claimant's reasons for quitting work. Under current law, there are good reasons for quitting that would disqualify an individual from receiving benefits. For example, as in the *Spain/Batey* cases, an individual who was working in a hostile, abusive environment could be denied benefits. A care worker who quit after a patient with dementia held a knife to her neck was denied benefits. A construction worker required to work untethered on a slanted surface was denied benefits.

The bill should be amended to extend the parts of ESHB 1906 that provided for a minimum benefit of \$155 and an additional \$45 per week through the end of the year. In 2009 benefit payments were \$3.5 billion, which generated \$6.2 to \$6.5 billion in purchasing power, helped small business, and helped families. This is the right thing to do with a fund that is solvent. The workers who are seeking work, but not finding it, need this support.

(In support with concerns) The bill represents the final step that is necessary for Washington to secure \$147 million to support unemployment programs. The federal American Recovery and Reinvestment Act of 2009 offers incentive funds to states that modernize their unemployment laws. Washington has already secured one-third of the funds because Washington law provides for an alternative base year. At least two more changes were needed to receive the remaining \$98 million. Legislation in 2009 dealt with compelling family reasons and got the state one step closer. However, the state will not get the remaining \$98 million without this final step.

The Department requests that the application date for the part-time piece be moved to January. There are also some technical clean-ups to work on.

(Opposed) Due to unprecedented economic challenges in 2009, there are companies that are experiencing layoffs for the first time in a long time or ever. The state has lost a lot of jobs, resulting in a significant draw down in the Unemployment Trust Fund. There are significant concerns about solvency in the long term.

This bill expands benefits and will lead to unknown, greater payouts from the Unemployment Trust Fund. It will require higher taxes and hinder job creation. Employers are already experiencing higher unemployment insurance and workers' compensation rates. These rates are exorbitant for some, and difficult to bear for all.

The state is currently paying out twice as much as it is taking in. The impact of increased benefits on employers has been significant, and will be even more significant if benefits are expanded. In 2010 employers experienced extraordinary tax increases, partly because of increased experience taxes and partly because of increased social taxes. In 2011 tax rates will double again, even without any additional benefit increases.

The fiscal notes are on shaky ground. For part-time workers, the impact is unknown. And for voluntary quits, there are only six months of experience. We think the estimates are low.

The state has an option to part-time work search for obtaining the modernization incentive payment. The other option is the expansion of the training benefits program. About \$20 million per year is set aside from the Unemployment Trust Fund, and a total of about \$80 million is available. It would be preferable to see changes made to the training benefits program.

There has been detailed examination of the voluntary quit issue. Benefits should not be paid to workers who quit, except for reasons listed in state law. Unemployment insurance is for those who are out of work through no fault of their own. Paying benefits to workers who quit contradicts that.

There is concern regarding the solvency of the Unemployment Trust Fund, and that the bill will push the state into dangerous waters and result in increased taxes.

Persons Testifying: (In support) Representative Conway, prime sponsor; Rebecca Johnson and Jeff Johnson, Washington State Labor Council; and David Johnson, Washington State Building and Construction Trades Council.

(In support with concerns) Commissioner Karen Lee, Employment Security Department.

(Opposed) Patrick Conner, National Federation of Independent Business; Nancy Hiteshue, Washington Roundtable; Donna Steward, Association of Washington Business; Mark Johnson, Washington Retail Association; and Jeff Kirby, Washington State Security Council.

Persons Signed In To Testify But Not Testifying: (Opposed) Jan Gee, Washington Food Industry.