

HOUSE BILL REPORT

ESHB 1636

As Passed Legislature

Title: An act relating to amateur sports officials.

Brief Description: Concerning services performed by amateur sports officials.

Sponsors: House Committee on Labor & Workforce Development (originally sponsored by Representatives Upthegrove, Nealey, Ormsby, Green, Fitzgibbon, Lias, Orcutt, Maxwell, Sullivan, Pedersen, Anderson, Van De Wege, McCune, Orwall, Ross, Goodman, Sells, Bailey, Stanford, Pearson, Roberts, Kristiansen, Warnick, Cody, Moscoso and Billig).

Brief History:

Committee Activity:

Labor & Workforce Development: 2/2/11 [DPS].

Floor Activity:

Passed House: 2/22/11, 94-0.

Passed Senate: 4/8/11, 48-0.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Excludes services performed by amateur sports officials from employment for unemployment compensation purposes.

HOUSE COMMITTEE ON LABOR & WORKFORCE DEVELOPMENT

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Sells, Chair; Reykdal, Vice Chair; Condotta, Ranking Minority Member; Shea, Assistant Ranking Minority Member; Fagan, Green, Kenney, Miloscia, Ormsby, Roberts, Taylor and Warnick.

Staff: Jill Reinmuth (786-7134).

Background:

Unemployment benefits may be paid and unemployment contributions (taxes) may be owed depending on whether services are deemed to be employment covered by the Employment

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.

Security Act. If so, benefits and taxes also depend on whether an exception test for independent contractors or an exclusion for certain services or persons applies.

A "services referral agency" is a business that offers the services of an individual to perform specific tasks for a third party. Personal services performed for a third party pursuant to a contract with a services referral agency are deemed to be employment for the agency when the agency is responsible for the payment of wages for those services. In *The Language Connection v. Employment Security Department*, the Washington Court of Appeals, Division One, concluded that such services are not employment if: (1) the agency is responsible only for promptly forwarding fees to an individual once the agency receives fees from the third party; and (2) the individual is not otherwise entitled to payment.

Summary of Engrossed Substitute Bill:

For unemployment compensation purposes, services performed by certain amateur sports officials, on a contest-by-contest basis, for interscholastic and recreational sports contests are excluded from employment. This exclusion does not apply to services for a state or local governmental entity, an Indian tribe, or certain nonprofit organizations.

These services also are not considered employment for services referral agencies if an agency is not responsible for payment to an official unless and until the agency is paid or reimbursed by a third party.

"Amateur sports official" is defined as a person who serves as a neutral participant in a sports contest where the players are not compensated. Examples of such officials include umpires and referees.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The majority of officials umpire and referee games as an avocation on nights and weekends.

The associations are generally small, nonprofit organizations that do scheduling for school districts, parks and recreation districts, and various leagues. They provide the officials with a centralized assigning and billing service. They provide training and help those who are interested learn how to get involved. An association gave me the tools I needed to referee high school basketball games, and to begin pursuing a career as a referee.

The bill deals with whether these associations are employers for unemployment insurance purposes. There is currently some inconsistency in how associations have been characterized.

The bill is narrow and focused. It excludes services provided by officials from employment for services referral agencies. (The associations are considered services referral agencies.) It avoids moving on to the independent contractor test.

The bill also keeps costs affordable for schools and others. The last thing we need is to pass on these expenses to schools and leagues, which will increase the costs for young families and others who participate in youth soccer and other sports. It will help the officials and their associations continue to serve their communities.

(Opposed) None.

Persons Testifying: Representative Upthegrove, prime sponsor; Nancy Pacharzina, Northwest Baseball Umpires Association; Holly Shephard and Tim Gately, Pacific Northwest Basketball Officials Association; Tom Butler, Washington State Referee Committee; and Mike Colbrese, Washington Interscholastic Athletics Association.

Persons Signed In To Testify But Not Testifying: None.